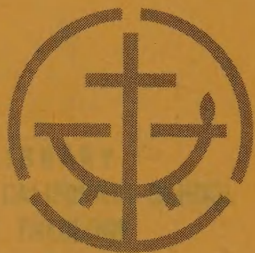


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## TABLE OF CONTENTS

On Some Institutions of the Old Assyrian Empire Julius Lewy, Hebrew Union College - Jewish Institute of Religion Cincinnati . . . . .	I
Traces of Prophetic Agony in Isaiah Sheldon H. Blank, Hebrew Union College - Jewish Institute of Religion, Cincinnati . . . . .	81
The Two Strata in the Eden Story Immanuel Lewy, New York, N. Y. . . . .	93
Jerusalem — 485 B. C. Julian Morgenstern, Hebrew Union College - Jewish Institute of Religion, Cincinnati . . . . .	101
Psalms 34 and 145 in the Light of Their Key Words Leon J. Liebreich, Hebrew Union College - Jewish Institute of Religion, New York . . . . .	181
The Treatment of Anthropomorphisms and Anthropopathisms in the Septuagint of Isaiah Harry M. Orlinsky, Hebrew Union College - Jewish Institute of Religion, New York . . . . .	193
Myths, Genealogies, and Jewish Myths and the Writing of Gospels Samuel Sandmel, Hebrew Union College - Jewish Institute of Religion, Cincinnati . . . . .	201
Related Prohibitions: Swine Breeding and the Study of Greek Ernest Wiesenberg, University College, London . . . . .	213
The Philosophy Implicit in the Midrash Henry Slonimsky, Hebrew Union College - Jewish Institute of Religion, New York . . . . .	235
Unknown Leaves from שאלות עתיקות Alexander Scheiber, Jewish Theological Seminary of Hungary, Budapest . . . . .	291
Saladin and the Jews E. Ashtor-Strauss, Jerusalem . . . . .	305

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## CONTENTS

Invitation to Intolerance: A Study of the Portuguese Sermons Preached at Autos-da-fé Edward Glaser, Harvard University.....	327
The Origin of the Ritual Implements for the Sabbath Franz Landsberger, Hebrew Union College - Jewish Institute of Religion, Cincinnati.....	387
The Democratic Socialism of Hermann Cohen Steven S. Schwarzschild, Fargo, N. D.....	417
השגות שהשיג הרב ר' משה הכהן מלוויל על ספרי רבנו משה ז"ל Samuel Atlas, Hebrew Union College - Jewish Institute of Religion....	א

## ON SOME INSTITUTIONS OF THE OLD ASSYRIAN EMPIRE<sup>1</sup>

JULIUS LEWY

Hebrew Union College-Jewish Institute of Religion, Cincinnati

BEDŘICH HROZNÝ determined in 1925 the exact place of the clandestine diggings owing to which many museums and private collectors had been able to acquire, in the course of the preceding five decades, thousands of "Kültepe texts". Having thus solved a problem with which earlier explorers had wrestled in vain<sup>2</sup>, he unearthed several hundred texts of the same type in the immediate neighborhood of the small area of the secret excavations. As the majority of the new tablets was in excellent condition and promised new insight into many problems more or less unsolved, their prompt publication was most desirable, all the more so since then, in 1925, the number of "Cappadocian" texts generally accessible amounted to less than 400 pieces many of which were poorly preserved or fragmentary. Hence it was welcome news when, in 1929, a French publisher announced the first volume of Hrozný's "Inscriptions cunéiformes du Kultépe" as forthcoming. However, for reasons which have never been divulged, the expectations raised by the publisher's announcement (which mentioned also an "introduction") remained unfulfilled, and some twenty

<sup>1</sup> The point of departure of this article was Hrozný's volume of Old Assyrian texts from Kültepe. Some of the observations presented in the following pages were communicated in papers read at Chicago on April 10, 1954 at a meeting of the Middle West Branch of the American Oriental Society and on August 25, 1954 at Cambridge at the 23rd International Congress of Orientalists, the respective titles of those papers being "New Light on the Old Assyrian Empire" and "The *išši'akkum* of Kaniš and the Old Assyrian Empire".

<sup>2</sup> In his *Kültepe Kazısı Raporu*, Ankara 1950, pp. 6 f. (pp. 109 f. of the German version), the director of the Turkish excavations at Kültepe, Dr. Tahsin Özgüç, describes Hrozný's diggings as the fourth attempt to obtain certainty about the provenience of the so-called Cappadocian Tablets. In doing so he obviously overlooked the attempt of Waldemar Belck whose interesting report on his stay at Kültepe (*Zeitschrift für Ethnologie* XXXIII, 1901, pp. 489 ff.) begins as follows: "In Caesarea kamen wir am 24. October [1901] an . . . Eine der Aufgaben, die ich mir für diese mehr orientierende Reise gestellt hatte, war die Bestimmung des tatsächlichen Fundortes der sog. "cappadocischen" mit Keilschrift bedeckten Thon-Täfelchen." Although this forgotten report abounds in untenable conclusions, it is likely that a careful study of its factual data would have been helpful to Winckler, Grothe and, especially, Hrozný. As for Hilprecht's inspection of the Kültepe, see Thureau-Dangin, *LC*, p. VIII, note 2 and cf. my *TuM* I, p. 5.



years elapsed until, but a few months before his passing, Hrozný had the satisfaction of seeing his volume published in Prague<sup>3</sup> — to all appearances, in much the same form as originally planned.<sup>4</sup> In a sense, the postponement of the publication was beneficial; for, aside from permitting collations of the autographed copies with the original tablets in the museums of Ankara and Istanbul, it gave Lubor Matouš the opportunity of contributing a very valuable index of proper names.<sup>5</sup> As is learnt from the brief preface (p. 1), the delay resulted, on the other hand, in the loss “par suite d'événements de guerre” of the copies of seven tablets.<sup>6</sup> To list in the present article all the new

<sup>3</sup> *Monografie archivu orientálního* edited by J. Rypka, vol. XIV: *Inscriptions cunéiformes du Kültepe*, vol. I, éditées par Bedřich Hrozný (Státní pedagogické nakladatelství, Praha 1952); hereafter cited as *ICK*. Lists of the abbreviations hereafter used when citing other editions of Kültepe texts or periodicals are found in *Orientalia* 15, 1946, p. 382, note 1 and in Eisner und Lewy, *Die altassyrischen Rechtsurkunden vom Kültepe*, I (Leipzig 1930), pp. XVI ff. and II (Leipzig 1935), p. IV; this corpus of legal documents will here be cited as *EL*.

<sup>4</sup> Hrozný's autographed copies appear on plates I to L (=texts Nos. 1-73) and plates LXXV-CXXIV (Nos. 81-194). Plates LI-LXXIV, which are the work of an architect, Mr. I. Cukr, are filled with drawings of seal impressions found on the case-tablets; as all case-tablets were opened, Hrozný was in the enviable position of being able to offer a complete edition of the numerous documents and letters which, when unearthed in 1925, were still in their envelopes. When comparing, e. g., “Sceau A” on pl. LI with the drawing No. 62 on pl. CCXXXIV of my *Tablettes cappadociennes* or “Sceau C” on pl. LXX with the slightly enlarged photograph of the obverse of KT 83 which I published in *Reallexikon der Vorgeschichte*, VI, pl. 60, one notices that Mr. Cukr's drawings are enormously enlarged and more or less sketchy. As this makes it difficult to determine which seals are known from other publications — a task which, incidentally, might have been undertaken by the editor —, it must be regretted that Hrozný published on pl. CXXV-CXXVII only a few photographs which show the (unopened) case-tablets in natural size. Such photographs would have been helpful also in finding out in which instances Cukr (or Hrozný?) correctly implied that the number of seals referred to in the text of a case is at variance with the number of seals actually used in encasing a document and in which instances his statements to this effect are erroneous.

<sup>5</sup> Pp. 9-20. The brief “description des tablettes” which follows in pp. 21 f. seems to have been written prior to 1929; it ought to have been revised, on the one hand, in order to eliminate faulty transliterations of proper names which figure correctly in Matouš's list and, on the other hand, in order to classify the texts in accordance with our present knowledge. A welcome addition is the inventory (pp. 3-7) which, in conjunction with the “plan des édifices trouvés en 1925” (pl. CXXIX), permits to determine the places where the various tablets were unearthed.

<sup>6</sup> Nos. 74-80. It would have been desirable to communicate at least transliterations of these tablets, all the more so since there appears on pl. LII sub 12a the note “Voir N° 74a, un fragment qui appartient au N° 12a”, whence we must conclude that No. 74 (cf. the drawing on pl. LXXIII) constitutes a valuable “join” to the fragmentary case tablet of No. 12.



data contained in the remaining 187 legal documents, business notes and letters is, of course, impossible. But the following gleanings and comments will suffice to illustrate the importance of this first volume of a series of text editions (now entrusted to Matouš) which we hope will continue to enhance Old Assyrian studies.

\*       \*  
\*

*ICK* 32 sheds, inter alia, new light on the family laws of the Old Assyrian period. As this unique document begins with a statement to the effect that a certain Pilaḥ-Ištar divorced (lit., "left") "his maid-servant" Walawala, and that she received in full her divorce-settlement<sup>7</sup>, we learn here that in certain cases a woman entitled, like a "legitimate wife", to alimony was denoted not as *aššatum* but as *amtum*.<sup>8</sup> This may well account for the fact that in a promissory note such as *CCT* 11<sup>b</sup> = *EL* 24 *amtum* figures (in l. 8) in the place of the usual *aššatum*.<sup>9</sup> Moreover, since it is reasonable to suppose that, unless legitimized by their father, children borne by an *amtum* did not enjoy the same rights as the children of an *aššatum*,<sup>10</sup> the occurrence in *ICK* 32, 2 of the term *amtum* may explain why in the contract *TC* 67 =

<sup>7</sup> See ll. 1 ff.: *Pi-lá-a[h-Ištar Wa-l]á(!)-wa-lá(!) 2a-ma-sú [e-zi-ib]-ma 3e-zi-ib-ta-š[a . . . . .] kašpam 4ša-bu-a-at.*

<sup>8</sup> Bilgiç, *Ankara Üniversitesi Dil ve Tarih-Coğrafya Fakültesi Dergisi* IX, 1952, p. 248 defines Walawala as "einheimische Sklavin". But this definition, which seems to be based on the non-Assyrian character of her name, is open to serious doubts. On the one hand, in view of the obvious implications of the fact that, according to ll. 7 f. (see presently), her mother and one of her brothers bore the Assyrian names Šât-Ištar and Amur-Aššur, and, on the other hand, because a woman designated as *amat* X was not necessarily X's "slave". This follows, inter alia, from the Neo-Assyrian document 83-1-18, 45 (published by Harper, *Assyrian and Babylonian Letters*, XII, Chicago 1913, No. 1239; for the lines here quoted see most recently H. Lewy, *Journal of Near Eastern Studies*, 11, 1952, p. 282 with note 92) which begins as follows: [a-di-e] šá fZa-ku-u-te amti šá mSîn-aḥ[hēMEŠ-erība] 2[ummi] mAššur-aḥ-iddina šarri mâtAššur<sup>KI</sup>. It would seem that the queen dowager speaks here of herself as Sennacherib's *amtu* according to the principle owing to which many a king or powerful minister denoted himself as *wardum* of the ruler whom he served. Quite aside from these considerations, there is nothing in *ICK* 32 which, directly or indirectly, characterizes Walawala as an unfree person.

<sup>9</sup> According to ll. 22 ff. of the *Sammelurkunde* Gelb No. 59, the damaged lines 5 ff. of *EL* 24 read as follows: [1/3 ma]nâ'em kašpam ša-ru-pâ-am 6[i šé-e]r Ili-ma-lâ-ak 7[mêr Sîn]in-rê'im à Wa-wa-lâ 8[am]-tî-šu dEn-lîl-ba-ni i-šu 9[i]š-tû ḥa-muṣ-tim ša qâ-šî-im 10ša qâ-tî E-na-nim <warah><sup>KAM</sup> 11a-lâ-na-tim li-mu-um 12A-gu-tum 1/2 šiqlim TA i warḥim<sup>KAM</sup> 13šî-îp-tâm ú-šú-pu kašpum 14i qâ-qâ-ad šâl-mâ-šu-um ra-ki-is 15qâ-tî dEn-lîl-ba-[ni i šé-er] 16Wa-wa-lâ [ša-ak-na-at].

<sup>10</sup> Cf. *CH* §§ 170 f.

*EL* 1 the matronymic *mer'at Ištar-na'dâ*<sup>11</sup>, and not a patronymic, identifies a girl (*ṣuḥârtum*) who was, or was soon to become<sup>12</sup>, the wife (*aššatum*) of one Adad-damiq. The conclusion that, like *Walawala amat Pilaḥ-Ištar*, *Ištar-na'dâ* was not entitled to call herself *aššatum* and figures therefore in *EL* 1, 6 f. instead of the girl's father appears to be supported by a feature common to *EL* 1 and *ICK* 32: much as *Ištar-na'dâ*'s brothers seem to be mentioned in *EL* 1, 18<sup>b</sup> f.<sup>13</sup>, *Walawala*'s brothers play a role in *ICK* 32.<sup>14</sup> The reason why, in distinction from other Kültepe texts relating to divorce or, for that matter, to marriage, *ICK* 32 uses *amtum* instead of *aššatum* is unknown. But it is perhaps not too daring to conjecture that the Assyrian traders of Kaniš did not and could not accord to their wives the title *aššatum* whenever they were married to an *aššatum* residing elsewhere — for instance in the city of Aššur — or wished to retain the right to marry another woman whom they intended to make their *aššatum*. *ICK* 32 points, in fact, in this direction since its second clause refers to children of *Pilaḥ-Ištar* whom he obviously had not begotten with *Walawala*.

Beginning with the words *ana awâtim anni'âtim* "in connection with this affair", i. e. with the divorce and the divorce-settlement, as reported in ll. 1-4<sup>a</sup>, this second and most essential section of *ICK* 32

<sup>11</sup> That the name *Ištar-na-da* was borne by women follows from *TC* III 255 A, lines 1-3; cf. *Archives d'Histoire du Droit Oriental* I, 1937, p. 98, note 1.

<sup>12</sup> That *EL* 1 deals with the marriage of a girl under age which was not yet consummated, was noted by J. Lewy, *Studien zu den altassyrischen Texten aus Kapadokien*, Berlin 1922, p. 68, note 1 and A. van Praag, *Droit matrimonial assyro-babylonien*, Amsterdam 1945, p. 89; so now also Bilgiç, *loc. cit.*, p. 243.

<sup>13</sup> See ll. 18<sup>b</sup> f.: *a-ḫi-a* <sup>19</sup>*lâ ú-kâ-sà* "He shall not bind my brothers". The interpretation of this clause by Eisser, *EL* I, p. 1 (see now also Bilgiç, *loc. cit.*, pp. 243 f.), who finds in *aḫḫêja* a reference to "the bride's" brothers, meets with serious difficulties because, being under age and the object — not the subject — of the contract, *Ištar-na'dâ*'s daughter was certainly not the person to make a statement concerning "my brothers" and to have it appended to the document which contained the agreements relating to her marriage to Adad-damiq. On the other hand, it is significant that, according to ll. 1-4, the latter was the only party concerned who, by sealing the case-tablet, recognized obligations on his part. In other words, in view of the well-known rules governing the sealing of Old Assyrian contracts, it appears that *EL* 1 records exclusively rights conceded to *Ištar-na'dâ* (and through her to her daughter) when she consented to her daughter's marriage. Hence it is probable that the brothers said to be exempt from any obligations were *Ištar-na'dâ*'s brothers. (Obviously, these observations militate against my former suggestion that ll. 18<sup>b</sup> f. might have served the purpose of exempting Adad-damiq's brothers from the obligations of the levirate. An additional reason for withdrawing that tentative proposal is the argument, adduced by Bilgiç, that *ukassû* would be the verb expected in this case.)

<sup>14</sup> See presently.

relates that "Pilaḥ-Ištar (and) Walawala, (with) her mother Šât-Ištar and her brothers Nûnu and Amur-Aššur at her side, stepped forth and swore by Aššur, Anna and the prince".<sup>15</sup> As usual<sup>16</sup>, the text then mentions the contents and purpose of the oath: "They", that is, no doubt, Walawala, her mother and her brothers, promised "not to sue Pilaḥ-Ištar and his children for anything". There follows, likewise in a wording familiar from other Kültepe tablets<sup>17</sup>, a clause providing for a penalty of no less than 10 minas of silver in case they would sue him. In its concluding lines, finally, which imply that Walawala's husband wished to move his residence to the city of Aššur<sup>18</sup>, our document acquaints us indirectly with the motive of Pilaḥ-Ištar's decision to divorce his consort; it says: "(As for) his daughter Lamassi, Pilaḥ-Ištar will take<sup>19</sup> her along when he goes to the city. In regard to upbringing (and) her food, they have been satisfied; they will not demand from him anything".<sup>20</sup> On the whole, these laconic sentences bespeak themselves, but it might be well to mention that the reference to the expenditures for Lamassi's upbringing and maintenance can easily be explained by the assumption that Walawala and Lamassi had stayed with the former's family because, owing to his profession of a traveling merchant, Pilaḥ-Ištar had frequently been absent from Kaniš.<sup>21</sup>

<sup>15</sup> On the important fact that this passage has, in the place of the usual *ni-iš a-lim<sup>KI</sup> ú ru-ba-im tamâ'um* (EL 306, 17 f.; VAT 9261, x+12 f. [see EL I, p. 277, note c]; BIN VI 219, x+16 f.) or *ni-iš a-lim<sup>KI</sup> tamâ'um* (for references see EL II, p. 91, note c), *ni-iš A-šûr ni-iš A-na ni-iš ru-ba-im tamâ'um* see below, pp. 10 ff. As for the reasons why I transliterate *Anna*, and not *Ana*, see *Symbolae Hrozný*, IV (1950), p. 382, note 75.

<sup>16</sup> See, for instance, EL 9 A, ll. 5 ff.

<sup>17</sup> See, e. g., EL 194 A, ll. 14<sup>b</sup> ff.

<sup>18</sup> This is all the less surprising since we know of quite a number of successful Assyrian businessmen who lived for years in Anatolia and returned subsequently to their home city on the Tigris.

<sup>19</sup> Lit., "conduct".

<sup>20</sup> In the light of these clauses, it can now be said with greater assuredness than formerly (see EL I, p. 5) that the document EL 6 concerns a divorce. In particular, it now becomes manifest that the 11½ shekels of silver mentioned in ll. 10-12<sup>a</sup> of that document represent the compensation to be given to Talḥama for taking care of the son she had borne to Ili-ašranni. From the comparison of EL 6 with ICK 32 it would also appear that Talḥama had been living with Ili-ašranni not as *aššatum* but as *amtum*, and that Ili-ašranni was not "verschollen" (as considered possible by Eisser) but had moved away from Kaniš, possibly to Aššur.

<sup>21</sup> For the reader's convenience, we transliterate the lines not already quoted above, p. 3, note 7: *a-[na] 6a-wa-tim a-ni-a-[t]im 6Pi-lá-aḥ-Ištar W[a-lá-w]a-lá 7Ša-at-Ištar um-ma-[ša] 8Nu-nu ú A-mur-A-šûr 9a-ḥu-ša i ša-ḥa-ti-ša 10i-zi-zu-ma ni-iš 11A-šûr ni-iš A-na 12ni-iš ru-ba-im 13it-mu-ú-ma 14a-na Pi-lá-aḥ-Ištar 15me-er-e-šu 16ú a-na mi-ma šu-mi-[šu] 17ú-lá i-tù-ru-šu-u[m] 18šu-ma i-tù-ru-šu-u[m] 1910 mand'ê*

[Some time after the preceding comments on the contents and implications of *ICK* 32 had been put down, Dr. Matouš acquainted me with the unpublished contract *I* 490. Since, as will be presently seen, this precious document furnishes essential information about the status of spouses designated not as *aššatum* but as *amtum*, its prompt publication at this place needs no justification.<sup>22</sup> *I* 490, which concerns the same persons as the letters *BIN* VI III and *VAT* 13 547<sup>23</sup>, runs as follows: <sup>1</sup>*Ištar-lá-ma-sí mer'at* <sup>2</sup>*A-šūr-na-da Puzur-Ištar* <sup>3</sup>*a-na am-tù-tim* <sup>4</sup>*e-ḫu-uz-ma a-na* <sup>5</sup>*Bu-ru-uš-ḫa-dim* <sup>6</sup>*lu a-na Ḫa-tim a-šar* <sup>7</sup>*ḫa-ra-šu-ni i-š-ti-šu* <sup>8</sup>*i-ra-dí-ši ù qá-dí-šu(!)-ma* <sup>9</sup>*a-na Kà-ni-iš* <sup>10</sup>*ú-ta-ra-ši* <sup>11</sup>*šu-ma* <sup>12</sup>*e-zi-ib-ši 5 manā'ê* <sup>13</sup>*kaspam i-ša-qal* (lower edge) <sup>14</sup>*šu-ma ší-it* (rev.) <sup>15</sup>*té-zi-ib-šu 5 manā'ê* <sup>16</sup>*ta-ša-qal šu-ma* <sup>17</sup>*a-lá-an a-ši-ti-šu* <sup>18</sup>*ša a-lim A-šur ša-ni-tám* <sup>19</sup>*lá e-ḫa-az šu-ma* <sup>20</sup>*Ištar-lá-ma-sí a-di 3 ša-na-at* <sup>21</sup>*šé-ra-am lá e-mar* <sup>22</sup>*amtam i-ša-a-ma* <sup>23</sup>*e-ḫa-az A-šur-né-me-dí* <sup>24</sup>*A-ni-na* <sup>25</sup>*ù um-ma-ša* <sup>26</sup>*a-di-nu-ši* <sup>27</sup>*[maḫar] A-na-lí* (left edge) <sup>28</sup>*mêr A-al-tâb* <sup>29</sup>*maḫar Ma-num-ba-lím-A-šur* <sup>30</sup>*mêr A-šur-šú-lu-lí* <sup>31</sup>*"Puzur-Ištar* <sup>32</sup>*took* (in marriage) <sup>33</sup>*as amtum* <sup>34</sup>*Ištar-lamassi, the daughter of* <sup>35</sup>*Aššur-na'dâ*<sup>24</sup>, <sup>36</sup>*and (thus)* <sup>37</sup>*he will take*<sup>25</sup> <sup>38</sup>*her* <sup>39</sup>*with him* <sup>40</sup>*to* <sup>41</sup>*Burušhaddum* <sup>42</sup>*or to* <sup>43</sup>*Ḫattum*<sup>26</sup> <sup>44</sup>*where(soever)* <sup>45</sup>*this journey (will lead him)*; <sup>46</sup>*in addition,* <sup>47</sup>*he*

*kaspam i-ša-[qú-lu]* <sup>20</sup>*Lá-ma-sí me-er-a-sú* <sup>21</sup>*Pí-lá-aḫ-Ištar i-nu-mì* <sup>22</sup>*a-na a-lim*<sup>KI</sup> <sup>23</sup>*lu-ku i-ra-dí-ši(!)* <sup>24</sup>*ta-ar-bi-tám* <sup>25</sup>*ú-ku-ul-ta-ša* <sup>26</sup>*ša-bu-ú mî-ma* <sup>27</sup>*ú-lá e-ru-šu-šu* <sup>28</sup>*maḫar En-nam-A-šūr* <sup>29</sup>*maḫar E[n-na-Sîn]*<sup>in</sup> <sup>30</sup>*maḫar [ . . . . . ]* <sup>31</sup>*maḫar Da-lá-áš* <sup>32</sup>*maḫar A-da-da.*

<sup>22</sup> It goes without saying that I am most grateful to Dr. Matouš for placing at my disposal a copy of the document and for consenting to its communication in transliteration and translation.

<sup>23</sup> The following is a transliteration of this unpublished letter: <sup>1</sup>*um-ma Puzur-Ištar-ma* <sup>2</sup>*a-na Ištar-lá-ma-sí* <sup>3</sup>*qí-bi-ma a-ma-kam* [erasure ending in *-na(?)*] <sup>4</sup>*a-šar bîlîm*<sup>im</sup> <sup>5</sup>*ša-ši-ri* <sup>6</sup>*58 bîlâtum 50 manā'ú* <sup>7</sup>*annukum ku-nu-ku-ú* <sup>8</sup>*i-na ma-ša-ar-tim* <sup>9</sup>*i-na ḫu-ur-ši-im* <sup>10</sup>*ma-ḫi-ri-im* <sup>11</sup>*mî-at 30 šubâtú*<sup>H1.A</sup> (edge) <sup>12</sup>*ša qá-tim* <sup>13</sup>*mî-at 20 šubâtú*<sup>H1.A</sup> (rev.) <sup>14</sup>*damqátum* <sup>15</sup>*13 emârú*<sup>H1.A</sup> <sup>16</sup>*ša-la-mî(sic)-ú mî-ma* <sup>17</sup>*a-nim i-na* <sup>18</sup>*bîlîm*<sup>im</sup> <sup>19</sup>*ku-nu-[k]i-e* <sup>20</sup>*e-zi-ba-ki-im* <sup>21</sup>*a-pu-tum a-na ba-tim* <sup>22</sup>*a-e-ma lá tû-ši-i* <sup>23</sup>*a-dí ti-ir-ti za-ku-sà* <sup>24</sup>*ta-ša-me-i-ni.*

<sup>24</sup> Lit., "Ištar-lamassi, the daughter of Aššur-na'dâ, Puzur-Ištar took (in marriage) to be *amtum*".

<sup>25</sup> Lit., "conduct".

<sup>26</sup> It will be noted how lines 4<sup>b</sup>-10 coordinate Burušhaddum and Ḫattum as alternative goals of a commercial trip and contrast them with Kaniš. Thus this passage supplements the data adduced by me in *Symbolae Hrozný*, IV, 1950, pp. 368 ff. as evidence that, like Burušhaddum, Kaniš and other place names, Ḫattum occurs in the Kültepe texts as the name of a city as well as of the territory dominated by this city, i. e. in the function of the terms *URUḪatti* and *KUR URUḪatti*, as found in the later sources unearthed at Boğazköy. As regards Landsberger's latest attempt (*ibidem*, pp. 321 ff.) to deny this and to prove that *i-na Ḫa-tim* means "auf dem flachen Lande", "in der Provinz", I recall in passing that Old Assyrian expresses this notion by *ina eqlim* and *eqlam*; cf., e. g., TC II 21, 7 ff. (see *EL* II, pp. 90 f.),



will bring her <sup>8</sup>together with him <sup>10</sup>back <sup>9</sup>to Kaniš.<sup>27</sup> <sup>10</sup>If <sup>11</sup>he divorces her, <sup>12</sup>he will pay <sup>11</sup>5 minas of <sup>12</sup>silver; <sup>13</sup>if she <sup>14</sup>divorces him, <sup>15</sup>she will pay <sup>14</sup>5 minas. <sup>15</sup>{If<sup>28</sup>} <sup>16</sup>Besides his wife <sup>17</sup>in<sup>29</sup> the city of Aššur<sup>30</sup> <sup>18</sup>he shall not take (in marriage) <sup>17</sup>another (woman). <sup>18</sup>If <sup>19</sup>Ištar-lamassi <sup>20</sup>does not behold<sup>31</sup> an infant<sup>32</sup> <sup>19</sup>within 3 years, <sup>21</sup>he will buy a maid-

EL 321, 23 ff. (*lu-qú-tum lu i-na a-lim<sup>KI</sup> lu i-na eglim<sup>lim</sup> a-na bît Bu-za-zu e-ra-áb* [see EL II, pp. 195 f.]), EL 286, 1, TC III 33, 12 ff. (*emârum eglam<sup>lam</sup> i-mu-ul-ma . . .*), ICK 12, 11; 29 f. If Landsberger tries to support his assertions by the far-fetched argument "Schliesslich wäre es mehr als sonderbar, wenn in f [=ICK 162] and g [=ICK 178], den einzigen Urkunden, in denen die Rückzahlung eines Darlehens nach Rückkehr eines Kontrahenten von der Reise erfolgt, beidemale diese Reise nach Hattuš gegangen wäre", he merely shows that he failed to take cognizance of documents as easily accessible as EL 68 (see ll. 5 ff.: *iš-tù a-lim<sup>KI</sup> I-ku-num i-tù-a-ri-šu A-gu-sà kaspam i-ša-gal*), EL 69 (see ll. 5 ff.: *15 šiqlî i-na e-ra-bi-šu-ma iš-tù Ga-ti-lá ú-še-ba-lam 15 šiqlî i-na i-tù-a-ri-šu i-ša-gal*), TC III 245 (see ll. 5 ff.: *iš-tù a-lim<sup>KI</sup> i-na i-tù-a-ri-šu i-ša-gal*), BIN VI 229 (see ll. 5 ff.: *i-na Kâ-ni-iš <i-na> e-ra-bi-šu i-ša-gal*), EL 227 (see ll. 5-15) and others.

<sup>27</sup> Lit., "<sup>10</sup>he will make her returned <sup>9</sup>to Kaniš <sup>8</sup>together with him only."

<sup>28</sup> *Šumma* "if" is here obviously out of place; since the preceding and the following clauses of our document begin with *šumma*, it appears that the scribe repeated it by mistake.

<sup>29</sup> Lit., "of".

<sup>30</sup> The spelling *a-lim A-šur* must, of course, be compared with *a-lim A-šûr* in TC III 58, 16 where the context suggests the reading *a-lam<sub>4</sub> A-šûr*. (For LIM = *lam<sub>4</sub>* see, e. g., EL 252, 6; EL 313, 10; TC III 33, 12 [see above, p. 6, note 26]; TC III 166, 13; TC III 202, 2 and cf. von Soden, *Das Akkadische Syllabar*, p. 77 who prefers the transliteration *lam<sub>5</sub>*.) For the spellings *a-lim<sup>KI</sup> A-šur* and *a-lim<sup>KI</sup> dA-šur* see EL 102, A 15 and EL 230, 22.

<sup>31</sup> Instead of *e-mar* one expects *e-mur* or *e-mu-ur*. However, the well-known fact that other Semitic languages substitute *ar* for *ur* (see, e. g., Bauer und Leander, *Grammatik des Biblisch-Aramäischen*, Halle 1927, p. 42 sub u) and, especially, the Middle Assyrian and Neo-Assyrian forms *ašpar* and *šufar*, which were discussed by von Soden, *Journal of Cuneiform Studies* 2, 1948, p. 301, prevent us from seeing in *e-mar* a faulty form. [The reasons for which Gelb, *Bibliotheca Orientalis* 12, 1955, p. 98 rejects von Soden's evaluation of the forms *ašpar* and *šufar* are not cogent, all the less so since the inverse phenomenon of the occurrence of *em(m)ur* instead of *em(m)ar* (in Middle Assyrian documents; see von Soden, *loc. cit.*, p. 300) has a parallel in Old Assyrian in which, as will be recalled, *batîq wa-târ* alternates in the same idiom with *batîq wa-tù-ur*. Since *batîq* is I 1, it appears, in fact, that against my former explanation of *wa-tù-ur* as II 1, *watur* stands for *watar*, just as Middle Assyrian and Neo-Assyrian *em(m)ur* and *Sip(p)ur* stand for *emmar* and *Sippar*. In other words, it seems that, as early as the epoch of the Kültepe texts, the Assyrian dialect was characterized by phonetic phenomena familiar in part from Biblical Aramaic (see above) and in part from Syriac (see, e. g., Brockelmann, *Syrische Grammatik*<sup>6</sup>, 1951, § 56 sub aß).]

<sup>32</sup> In view of Ištar-lamassi's legal status it is but logical that our document uses here the term *šerrum*; for, as was repeatedly noted, *šerrum* (var. *šarrum*) denotes children begotten with an *amtum*.

servant and <sup>22</sup>take her (as concubine). Aššur-nêmedi, <sup>23</sup>Anina and her mother <sup>24</sup>gave her (in marriage).<sup>33</sup> <sup>25</sup>[Before] Anna-(i)li, <sup>26</sup>the son of Âl-tâb; <sup>27</sup>before Mannum-balum-Aššur, <sup>28</sup>the son of Aššur-šulûli."

Besides shedding light on the legal position of an *amtum* of, no doubt, Assyrian nationality who married at Kaniš an Assyrian from Aššur, I 490 helps to establish the exact wording of the cognate document ICK 3<sup>34</sup> which, however, represents the marriage contract of an *aššatum*<sup>35</sup> characterized by her own and her father's name<sup>36</sup> as an Anatolian "native" from Kaniš.<sup>37</sup> This important text may now be

<sup>33</sup> On the basis of Gelb No. 56, 28 f. (*maḥar A-šur-nê-me-dî mēr A-šur-na-da*; see also KTS 8<sup>b</sup>, 1-4), it seems quite likely that the two men figuring in ll. 22-24 of our document were brothers of the bride Ištar-lamassi. In view of the habit of using as witnesses to business transactions relatives and especially brothers, we mention as further evidence which possibly points in this direction the fact that, according to EL 124, 21, an *A-ni-na* witnessed a transaction which concerned, inter alia, an amount of silver owned by an *A-šur-nê-me-dî* (ll. 13 f.).

<sup>34</sup> An annotated first transliteration and translation of this contract of Lâqîpum with Ḥatala was published as early as 1939 by Hrozný in *Symbolae Koschaker*, pp. 108 ff.; see further Landsberger, *Symbolae Hrozný*, III (1950), pp. 338 f. (with faulty designation of the text!); J. Lewy, *ibidem*, IV (1950), p. 421; Bilgiç, *loc. cit.*, pp. 242 f.; Driver and Miles, *The Babylonian Laws*, I, Oxford 1952, p. 370, note 5.

<sup>35</sup> Thus if we follow Hrozný, *loc. cit.*, p. 109 in taking it for granted that Lâqîpum's wife Ḥa-ta-lâ (ICK 3, 1 ff.) was identical with that Ḥu-a-ta-lâ aššat Lâ-qî-îp mēr IR (i. e. mēr Wardim; cf. below, p. 76, note 325) who appears in ICK 67, 2 f. It is, in fact, difficult to believe in a coincidence and, accordingly, to draw a distinction between Lâqîpum who was the husband of a Ḥu-a-ta-lâ and another Lâqîpum who married a Ḥa-ta-lâ. According to Hrozný, the letter ICK 69 substitutes for Ḥu-a-ta-lâ or Ḥa-ta-lâ the "variant" Ḥu-ta-lâ. It must, however, be noted that the other letters addressed by Lâqîpum to his wife (CCT III 50<sup>a</sup> and BIN IV 228) offer Ḥa-ta-lâ as does ICK 3. Note that CCT III 50<sup>a</sup> concerns the same debtor as the document ICK 97, and that ICK 97 and ICK 69 were found in one and the same room.

<sup>36</sup> Ḥatala's father, a certain Eniṣrû, is known to have been a money-lender apparently of considerable means; see J. Lewy, *Archives d'Histoire du Droit Oriental* I, 1937, pp. 96 f.

<sup>37</sup> The observation that their respective names and patronymics permit us to define Lâqîpum and Ḥatala as spouses of different ethnical origins is borne out by the fact, already briefly noted by Hrozný, *loc. cit.*, p. 111, that their marriage contract was witnessed by two Assyrians and two bearers of the typically "native" names Talia and Šubbianikka. For obvious reasons, it is also important to note that persons named Šubbianikka were women. (The pertinent evidence adduced by me in *Archives d'Histoire du Droit Oriental* II, 1938, p. 114, note 1 is now supplemented, inter alia, by the document ICK 35, the inner tablet of which begins as follows: "Išalu(w)atta <sup>2</sup>bought <sup>2</sup>Suli; <sup>4</sup>this mother (*um-mu* [!]-šu-ú) <sup>5</sup>Šubbianikka <sup>6</sup>offered him <sup>6</sup>for <sup>6</sup>sale.") Finally, attention must be called to the fact that there occurs in ll. 15, 16 and 18 of ICK 3 the masculine suffix -šu instead of the respective feminine suffixes -ša and -ši required by the context. As this is a characteristic feature of many a document relating to bearers of non-Assyrian names, it is hardly too daring to assume that this contract was recorded by a "native" scribe who may or may not have been in the employ of Eniṣrû and/or his daughter.

rendered as follows: “<sup>2</sup>Lâqîpum <sup>3</sup>took (in marriage) <sup>1</sup>Ḫatala, <sup>3</sup>the daughter of Eniṣrû. <sup>4</sup>In the country<sup>38</sup> <sup>3</sup>Lâqîpum <sup>5</sup>shall not take (in marriage) another (woman)<sup>39</sup>, <sup>6</sup>(but) in the city (of Aššur) <sup>7</sup>he may take (in marriage) <sup>6</sup>a *qadištum*.<sup>40</sup> <sup>7</sup>If <sup>8</sup>within 2 years<sup>41</sup> <sup>9</sup>she has not procured <sup>8</sup>offspring <sup>9</sup>for him, <sup>10</sup>only she <sup>11</sup>may buy <sup>10</sup>a maid-servant

<sup>38</sup> I. e. “in this country”; on the use of *mâtum* “the land (par excellence)” in this sense, that is as designation of the part of Anatolia in which the Assyrians and non-Assyrians of Kaniš saw their homeland, see *Symbolae Hrozný*, IV, pp. 418 ff. and cf. below, pp. 13 ff.

<sup>39</sup> Neither Hrozný's facsimile of *ICK* 3 nor Bilgiç's remarks on the results of an inspection of the original tablet permit us to decide whether at the end of l. 4 the scribe erased three or only two signs. Hence it is unknown whether our document has after *i-na ma-tim* simply *ša-ni-tám lá e-ḫa-az*, as may now well be assumed in consideration of *I* 490, 17 f., or rather DAM (sic; see Bilgiç, *loc. cit.*, p. 243) *ša-ni-tám lá e-ḫa-az*, as seems possible in view of *EL* 1, 8 f. We prefer the first alternative, in the first place because, as emphasized by Bilgiç, the Codex Hammurapi attests the occurrence of *šanitum* in the sense of *aššatum šanitum*, and secondly because *ICK* 3 differs from *EL* 1 in as much as its first clause uses *ēḫuz* instead of the fuller *aššatum ēḫuz*, as does, inter alia, *EL* 7, 4 ff. (*Ši-im-nu-ma-an mēr Ta-ta-li-i Šu-bi-a-ni-kā e-ḫa-az*; cf. *AHDO* II, 1938, p. 114, note 3). On the other hand, it is, fortunately, irrelevant which of the two readings is adopted; for, to say nothing of the passage cited above from *ICK* 67, the social standing which a daughter of Eniṣrû is likely to have enjoyed and the implications of the lines 6–7<sup>a</sup> of *ICK* 3 (see presently) make it obvious that Ḫatala was married as *aššatum* and not, as assumed by Hrozný, as a “Haremsfrau” who subsequently happened to be elevated to Lâqîpum's “legitimate wife”.

<sup>40</sup> As is shown by the Series *ana ittišu* (see now Landsberger, *Materialien zum Sumerischen Lexikon*, I, Roma 1937, pp. 99 f.) as well as by other sources, *qadištum aḫāzum* means “to marry a hierodule”. It was therefore but natural that none of the authors who, as mentioned above, p. 8, note 34, dealt after Hrozný with this contract endorsed his suggestion (*loc. cit.*, pp. 110 f.) to see in *ICK* 3, ll. 6–7<sup>a</sup> a clause by which Ḫatala's husband was granted permission to visit an Ištār temple whenever he came to Aššur on a commercial trip. Since we know now from *I* 490 that Assyrians who, owing to their profession, lived for many years in Asia Minor married sometimes two wives, viz. an *aššatum* who stayed in Aššur and a consort designated as *amtum* and thus characterized as a wife of inferior rank, it seems, instead, logical to assume that *ICK* 3 records a case in which an Assyrian trader whose home was at Kaniš married as *aššatum* a citizen of that city but reserved the right of marrying at Aššur a *qadištum*, i. e. a woman of lower social and legal standing. This comparison of the marital status of Lâqîpum, who had an *aššatum* at Kaniš and was permitted to marry a *qadištum* at Aššur, with that of Puzur-Ištār who, according to *I* 490, married in Asia Minor an *amtum* from Kaniš in addition to his *aššatum* at Aššur, is, in fact, all the more justified since it can safely be assumed that, like those of an *amtum* or a *ḫarintum*, the children of a married *qadištum* did not succeed to their father's estate. A married *qadištum* who lived at Kaniš seems to have been mentioned in the damaged document *BIN* VI 222; see ll. 8 f.: *ša(!) Lá-ma-si a-š[i-ti-šu] qá-dí-iš-tim(!)*.

<sup>41</sup> The reading *a-dí MU(!) 2(!) ŠÊ(!)* “within two years”, as first established by Bilgiç, *loc. cit.*, pp. 242 f., is strongly supported by *I* 490, 19.

<sup>11</sup>and <sup>12</sup>even later on<sup>42</sup>, <sup>13</sup>after <sup>14</sup>she procures <sup>13</sup>somehow<sup>43</sup> an infant <sup>14</sup>for him, <sup>16</sup>she may sell her <sup>15</sup>where(soe'ever) she pleases.<sup>44</sup> <sup>17</sup>If Lâqîpum <sup>18</sup>divorces her, <sup>19</sup>he will pay 5 minas of silver, <sup>20</sup>and if Ḥatala divorces him, <sup>22</sup>she will pay <sup>21</sup>5 minas of <sup>22</sup>silver. <sup>23</sup>Before Maṣâa, <sup>24</sup>before Aššuriš-tikal, <sup>25</sup>before Talia, <sup>26</sup>before Šubbianikka."']

\*       \*  
\*

As said above, the occurrence in *ICK* 32 of an oath by "Aššur, Anna and the prince" is so remarkable as to call for further investigation. Since, according to scores of contemporary Babylonian documents, the inhabitants of many a major city were wont to mention in their oaths the divine patron of their city, we must, above all, determine whether Anna can be supposed to have been the god of the city of Kaniš. Considering the circumstances in which he figures in the contracts *EL* 67, *TC* III 254<sup>45</sup> and *ICK* 115, in the document *EL* 153 and, especially, in an unpublished letter of the Sayce Collection<sup>46</sup>, it

<sup>42</sup> As for *wa-ar-kà-lám* "later on", see *EL* II, p. 167, note b.

<sup>43</sup> Thus on the supposition that *mî-im* stands incorrectly for *mî-ma*; cf. the frequent use in negative sentences of *mî-ma* in the sense of "in any way". For a proposal to eliminate *mî-im* see Landsberger (*loc. cit.*, p. 339, note 56) whose interpretation of the context (ll. 7<sup>b</sup>-16) is, however, as unacceptable to me as it was to Bilgiç, *loc. cit.*, p. 244.

<sup>44</sup> It so happens that a message addressed by Lâqîpum to Ḥatala, viz. the aforementioned letter *ICK* 69, includes the following passage: <sup>7</sup>šál-ma-ku(!) šu-ma <sup>8</sup>am-tum i šé-ri-ki(!) <sup>9</sup>lâ tá-ba-at <sup>10</sup>a-na šî-mî-im <sup>11</sup>dî-nî-šî-ma <sup>12</sup>šî-im-ša(!) li-qí "I am well. If <sup>8</sup>the maid-servant <sup>9</sup>has not found favor <sup>8</sup>with you, <sup>11</sup>sell her <sup>10</sup>for the purchase-price <sup>11</sup>and <sup>12</sup>take her purchase-price [i. e. "sell her at the price at which she was acquired and keep the money you receive for her"]." But there is, of course, no reason to combine this passage with ll. 7<sup>b</sup>-16 of *ICK* 3. — I also mention for the sake of completeness that *EL* 94, 22 names a certain *Wardum mēr Lá-qí-ip* (see *EL* II, p. 176). As the Kültepe texts acquaint us with numerous instances in which a boy was given his grandfather's name, and as Ḥatala's husband was the son of a *Wardum*, that reference to a *Wardum mēr Lâqîp* leaves little doubt that Lâqîpum and Ḥatala had at least one son. Moreover, just as *EL* 187 and *VAT* 9253 mention an *Aššur-mâlik mēr Lâqîp*, *ICK* 121, *ICK* 138 and *EL* 183 refer to a *Lâqîp(um) mēr Aššur-mâlik*; since *ICK* 138 comes from the same house as the document *ICK* 67, which concerns both *Lâqîp mēr Wardim* and *Ḥatala*, it would appear that *Wardum mēr Lâqîp* had a brother *Aššur-mâlik* and a nephew *Lâqîp*. From an unpublished text quoted in part by Bilgiç, *Kapadokya metinlerinde geçen yerli appellatifler ve bunların eski Anadolu dilleri içerisinde yeri*, Ankara 1953, p. 45 it even seems that *Lâqîp mēr Wardim* had still other sons.

<sup>45</sup> For a transliteration and annotated translation of *TC* III 254 see *Archives d'Histoire du Droit Oriental* I, 1937, pp. 92 ff.

<sup>46</sup> The pertinent lines of this letter begin with a statement to the effect that,



appears, in fact, most likely that the non-Assyrian "natives" of Kaniš and their fellow-citizens of Assyrian extraction worshipped Anna as the protector of their home-city.<sup>47</sup> Moreover, when looking for further instances of oaths by two deities and one man of princely status, one learns from a large number of contracts dating from approximately the same epoch as *ICK* 32 that at Larsam, i. e. in a city dedicated to the cult of the sun-god Šamaš which, like Aššur and Kaniš, had previously been governed in the name of the kings of the Third Dynasty of Ur<sup>48</sup>, persons who assumed certain obligations swore "by Nannar, Šamaš and Sîn-iddinam"<sup>49</sup>, subsequently "by Nannar, Šamaš and king Warad-Sîn"<sup>50</sup> and, finally, "by Nannar, Šamaš and king Rîm-Sîn".<sup>51</sup> On the other hand, it follows from the titles borne by Sîn-iddinam, Warad-Sîn and Rîm-Sîn in their "historical" inscriptions that these kings of Larsam considered their possession of Ur as important as, if not more important than, the possession of their own city Larsam,

having received one mina and three shekels of lead *ana tadmiqim*, a certain Šû-Bêlum *aḫu Ḥaddā* (who reappears now in *ICK* 96, 17 f.) promised Aššur-bêl-awâtîm ten and a half shekels of silver, the implication being that Šû-Bêlum failed to keep his promise. Turning therefore to his "brothers" Aššur-na'dā, Aššur-rê'um and Ilaprat-bāni (to whom the letter is addressed), Aššur-bêl-awâtîm concludes his complaints about Šû-Bêlum's unreliability in this and other matters with the significant words <sup>37</sup>*šû-ma e-mu-qá-tám e-ta-wu-ma ni-kà-sí* <sup>38</sup>*ša-sà-am lá i-mu-a i-na pá-šu-ri-im* <sup>39</sup>*ša A-na li-iš-ru* <sup>40</sup>"In case he speaks forcibly and <sup>38</sup>is not willing to settle <sup>37</sup>the accounts, <sup>39</sup>let them exclude (him) <sup>38</sup>from <sup>39</sup>Anna's <sup>38</sup>table!" (I am obliged to A. Goetze for kindly having shown me in 1928 his copy of this important letter which he had just studied in Sayce's home.)

<sup>47</sup> That the cult of Anna was not limited to the "natives" is corroborated by theophorous personal names such as *Puzur-A-na* (*EL* 26, 10; 34, 14; 116, 8; etc.), *Ma-nu-ba-lu-um-A-na* (*CCT* III 31, 12), *En-um-A-na* (*ICK* 138, 17), *A-na-lí* (*EL* 112, 7; 145, 16; 238, 33; etc.). (The assumption of Matouš, *ICK*, pp. 9, 13 and 19 that *ICK* 94, 5 mentions an *A-lá-ḫu-um mēr* \*\**I-be-lam-A-na* is erroneous; as can be seen from *EL* 301, 2 f., the passage quoted by Matouš deals with an *Al(i)-aḫum mēr I-bi-sú(!)-a*. Inversely, we miss on p. 19 of Matouš's list a reference to our passage, *ICK* 32, 11.)

<sup>48</sup> On the evidence which leads to the conclusion that administrative officers of the king of Ur were stationed at Kaniš see *Symbolae Hrozný*, IV, 1950, pp. 416 f. As for the presence of such officers at Aššur, see *OLZ* XXVI, 1923, col. 538.

<sup>49</sup> Thus according to *YBC* 4485, a text from Sîn-iddinam's seventh year (about 1844 B. C.) which was published by Goetze, *JCS* 4, 1950, pp. 97 and 112.

<sup>50</sup> Thus, for instance, in the documents *AO* 6353 and 6352 (published by Jean, *Contrats de Larsa, première série*, Paris 1926, Nos. 10 and 11) which date from the tenth and eleventh year of Warad-Sîn, i. e. from about 1826 and 1825 B. C.

<sup>51</sup> See, inter alia, *YBC* 4220 (latest edition by Faust, *Contracts from Larsa*, New Haven 1941, No. 58; translated by Koschaker und Ungnad, *Hammurabi's Gesetz*, VI, Leipzig 1923, No. 1563) and *YBC* 4210 (published by Faust, *op. cit.*, No. 124).

obviously because Ur, the city of the moon-god Nannar, had been, for more than a century, the capital of the whole state of "Sumer and Akkad". This being so, and since the oath formulae of the Early Babylonian epoch are known to reflect the political developments which resulted in the creation of larger states<sup>52</sup>, it is easy to see that, in the complex oaths here under discussion, the people of Larsam invoked Nannar as the god of the land to whose grace their monarch owed his rule over a territory larger than that of their native city<sup>53</sup>, Šamaš as the patron god of their city, and Šîn-iddinam (and subsequently Warad-Šîn and his successor, respectively) as the prince who, while residing at Larsam, was the earthly ruler of "the land" which, as just stated, included Larsam.<sup>54</sup> A comparison of the oath formula

<sup>52</sup> Instructive examples of changes in the oath formulae which were due to political events are provided, inter alia, by those contracts from Sippar which record oaths (1) "by Šamaš and Immerum" (see, e. g., *KU* III 375), (2) "by Šamaš and Immerum, Marduk and Sumu-lâ-ilâ" (*KU* III 380), (3) "by Šamaš, Marduk, Samu-lâ-ilâ and Bun-taḥ <t>un-ilâ" (*KU* VI 1744), and (4) "Šamaš, Marduk and Sumu-lâ-ilâ" (*KU* III 383). It is a safe conclusion, borne out, inter alia, by the existence of those well-known year dates which mention certain activities of Immerum and his successor Bunu-taḥtun-ilâ, that the first of these four formulae was in use when Sippar was the capital of an independent city-state, the second and third after Sumu-lâ-ilâ of Babylon compelled the rulers of Sippar to recognize him as their overlord, and the fourth after he removed Bunu-taḥtun-ilâ from the throne. It will be noted that, in invoking Marduk in the oaths attested by formulae 2, 3 and 4, the people of Sippar paid homage to the divine ruler of the city of Babylon.

<sup>53</sup> For evidence to the effect that the moon-god was regarded not only as the divine patron and king of the city of Ur (cf. the personal name <sup>d</sup>Šîn-šar-Urim<sup>KI</sup> 1) but also as the deity who "holds the life of all the land" and "chooses for kingship" see J. Lewy, *HUCA* 19, 1946, p. 478. That the kings of Larsam somehow shared this belief is suggested, inter alia, by the dedicatory inscription (Gadd and Legrain, *Ur Excavations, Texts*, I, London and Philadelphia 1928, No. 111) in which Nûr-Adad calls himself *pa-sum-ma* <sup>d</sup>Nanna(r)-ke<sub>4</sub>. Legal documents such as *B. M.* 33191 (latest edition by Jean, *Tell Sifr*, Paris 1931, No. 1) point in the same direction since they mention an oath "by <sup>d</sup>Nannar and king Nûr-Adad". The occurrence in various Old Babylonian texts of the personal name <sup>d</sup>Šîn-šar-ma-tim "Šîn is the King of the Land" shows likewise that that ancient concept survived the downfall of the Third Dynasty of Ur. (Note that one of the pertinent sources, *YBC* 5855 [published by Faust, *op. cit.*, No. 42] comes from Larsam and dates from Rîm-Šîn's 24th year.) On the occurrence in *V R* 44 of an analogous personal name (<sup>m</sup>Mâr-Ē-a-šarru-ma-a-ti) and, especially, on the fact that the notion of a divine "king of the land" is, since early times, traceable in almost every part of the Fertile Crescent in which Akkadian-speaking nations succeeded in uniting several city-states in one commonwealth see Dossin, *Syria* XXI, 1940, pp. 161 ff.

<sup>54</sup> For reasons which will presently become apparent, it is worthwhile noting that, although part of a united kingdom, Larsam continued more or less to be regarded as a city-state of its own. This follows from two dedicatory inscriptions in which Warad-Šîn designates himself as *ensi Larsam*<sup>KI</sup> and *ensi* <sup>d</sup>Utu, respectively;

in use at Larsam with that transmitted to us by the new Kültepe text here under discussion raises therefore the four interrelated questions: (1) Was Kaniš situated within a political unit large enough to have been considered the domain of a "god of the land"? (2) If so, was Aššur the god of that land who bestowed the scepter upon its earthly ruler? (3) Was Kaniš the seat of the government of that land? and (4) If so, was this government headed by a ruler who might be identical with the "prince" (*rubâ'um*) referred to in *ICK* 32?

The answer to the first of these questions is in the affirmative, for, as was shown elsewhere<sup>55</sup>, an examination of the circumstances in which the Kültepe texts employ expressions such as *ina mâtim*, *mâtum išal(l)im*, *mâtum ana ašriša litur*<sup>56</sup>, *ana mâtim kališa*<sup>57</sup>, *biltum ina aban mâtim*<sup>58</sup>, *manâ'um ša mâtim* makes it manifest that, in the period here under consideration, an area which included the city of Kaniš but was by far larger than an average city-state used to be designated by the inhabitants of Kaniš as "the land (par excellence)".<sup>59</sup>

In proceeding to the second of our questions, it is important to note that a name in which *Šarra-mâti(m)* "The King of the Land" serves as theophorous element, namely the personal name *Ni-mar-ša-ra-ma-ti*<sup>60</sup>, figures in an Old Assyrian document from Ališar.<sup>61</sup> For, in view of the data just mentioned<sup>62</sup>, it follows from this name that the notion "god of the land" was familiar to the Assyrian-speaking

see, on the one hand, No. 126 of the afore-cited work of Gadd and Legrain and, on the other hand, the text published by Delaporte, *Catalogue des cylindres orientaux, cachets et pierres gravées du Musée du Louvre*, II, Paris 1923, p. 179 sub 817 and pl. 93, Nos. 8<sup>a</sup> and 8<sup>b</sup> (latest transliteration and translation by Barton, *Library of Ancient Semitic Inscriptions*, I, New Haven 1929, pp. 324 f. sub 8).

<sup>55</sup> See *Symbolae Hrozný*, IV, 1950, pp. 418 ff. and cf. above, p. 9, note 38.

<sup>56</sup> *BIN* IV 34, 9 f.; cf. *KTHahn*, p. 2.

<sup>57</sup> *CCT* III 2<sup>b</sup>+3<sup>a</sup>, 29 f.; cf. Landsberger, *Symbolae Hrozný*, III, 1950, p. 337, note 48.

<sup>58</sup> This term occurs in ll. x+6 ff. (. . . . 2 šiglân x+7 *kaspum* à 40 *manâ'û* x+8 *eri'um iš-ti A-šur-i-dî* x+9 3 *bilâtum eri'um i-na a-ba-an* x+10 [*m*]a-tim) of a fragment a copy of which was shown to me in 1933 by the late Abbé de Genouillac.

<sup>59</sup> As was mentioned in *Symbolae Hrozný*, IV, pp. 420 f., Old Assyrian *mâtum* "the land" has sometimes the same sense as English "this country"; at other times it corresponds to "our country" and to German "das Vaterland".

<sup>60</sup> On the first element of this name see J. Lewy, *Die Kültepetexte der Sammlung Rudolf Blanckertz*, Berlin 1929, p. 23, and *ZA* 38, 1929, p. 245, note 2; Dossin, *loc. cit.*, p. 154. As for the second *a* vowel of the compound *šarra-mâtum*, see J. Lewy, *ZA* 38, 1929, p. 246, note 2; Gelb, *Inscriptions from Ališar and Vicinity*, Chicago 1935, p. 21; von Soden, *Grundriss der Akkadischen Grammatik*, Roma 1952, § 65 d.

<sup>61</sup> Gelb, *op. cit.*, No. 2; latest transliteration and translation by J. Lewy, *Orientalia* 19, 1950, p. 23, note 1.

<sup>62</sup> See above, p. 12, note 53.

population of Anatolia. Since Šamši-Adad's Stone Slab Inscription (KAH I, No. 2 and duplicates) speaks of <sup>d</sup>Šar-ru-ma-a-tim in a passage where a reference to Aššur is indispensable<sup>63</sup>, there is, on the other hand, no doubt that the inhabitants of the Assyrian metropolis on the Tigris saw in Aššur the "Divine King of the Land".<sup>64</sup> To be sure, this

<sup>63</sup> This was justly emphasized by Tallqvist, *Der Assyrische Gott*, Helsingforsiae 1932, pp. 10 f. and p. 11, note 1. (See also Dossin, *loc. cit.*, p. 166.) However, Tallqvist's assumption that it was Šamši-Adad I to whom Aššur owed his elevation "zum Landesgott" is untenable because the related divine name to be mentioned presently figures in a Kültepe text, i. e. in a source from the epoch preceding Šamši-Adad's accession to the throne. Moreover, the god Aššur seems to be defined as the owner of "the land" by the personal name Ša-A-šur-MA. DA, which occurs in an unpublished Kültepe tablet shown to me by De Genouillac (cf. *Revue d'Assyriologie* 35, 1938, p. 87, note 1).

On the other hand, it must be noted that Tallqvist's statement "Der Kult Aššurs war ursprünglich auf die Stadt Aššur beschränkt" (*op. cit.*, p. 15) is not contradicted by these data. For to say nothing of the fact that one and the same deity used to be invoked as "The King of Ur" and "The King of the Land" (cf. above, p. 12, note 53), an unpublished Kültepe text of the Fisher Collection seems to indicate that in the period here under discussion, in which, as is well known, *álum* was the current designation of the city of Aššur, the expression "The King of the City" referred to the heavenly and not to the earthly ruler of the Assyrian capital city: As will be seen below, p. 26, note 109, the opening lines of this fragmentary letter deal with a considerable amount of iron (*ḥusârum*) and go on to say that one half thereof (or of the proceeds of its sale?) was the property of LUGAL a-lim. On the other hand, it follows from EL 127, 11 f. (1/2 manâ'em a-na ḥu-sà-ri-im ša ik-ri-bi-a) that iron was among the valuable goods which, like certain profits resulting from their sale, were characterized as temple property by being designated, if not briefly as *ikribû*, either as *ikribû ša Aššur* (*ikribû ša Ištar*, *ikribû ša Aššur u<sup>d</sup> Ištar*, *ikribû ša<sup>d</sup> Šamaš* etc. etc.; see for the present *Revue de l'Histoire des Religions* CX, 1934, p. 42, note 25) or as "copper of the goddess Ninkarrak" (see TC II 54, x+8: 3 manâ'û eri'um dammuqum ša Ni-kà-ra-ak), "gold of Adad" (see, e. g., Oxford 427, 16 f.: 2 manâ'ê ḥurâšam i-na<sup>17</sup> ša<sup>d</sup> Adad a-dí-šu-nu-ti) etc. If we add to these data the fact that in one of the pertinent passages, viz. in BIN IV 41, 4 ff. (a šu-mì ḥurâšim ša bīt A-šur-ma-lik<sup>65</sup> ù ḥurâšim ša<sup>d</sup> Adad<sup>66</sup> ša ta-áš-ḫu-ra-ni na-áš-pi-er-ta-kà<sup>7</sup> ni-iš-me-ma . . . .), a reference to "gold of the god Adad" is preceded by one to gold of a human family it becomes obvious that we need not hesitate to infer that in the clause *ina libbišu mî-iš-lúm ša En-na-Sîn mî-iš-lúm ša LUGAL a-lim* the term "king of the city" denotes the god of the Assyrian metropolis. (On Enna-Sîn see below, p. 26, note 109.)

<sup>64</sup> This doctrine of Aššur's divine kingship (which, incidentally, illustrates biblical passages such as Ex. 15.18 ["Yahweh shall reign for ever and ever"]) and Judges 8.22 f.) explains why the Old Assyrian kings of the epoch elucidated by the Kültepe tablets refrained from assuming the title *šarrum*, *rubâ'um* being their preferred official designation (cf. EL II, p. 76, note d) which, however, interchanges occasionally with PA.TE.SI = *išši'akkum* (cf. ZA 36, 1925, pp. 24 f. sub a and see below, pp. 26 ff.). Some of their subjects, however, were more or less inclined to designate them as *šarrum*. This follows from TC II 54, a list of various sums of silver and gold



does not prove that the Assyrians who lived in Kaniš and numerous other towns of Asia Minor<sup>65</sup> regarded the same deity as the omnipotent patron and owner of the territory which they were wont to designate as "the land". But evidence which compels us to draw this conclusion and, accordingly, to state that the god Aššur was believed to rule over two different countries is supplied by two references in VAT 9295

and other valuable items entrusted to a Puzur-Aššur with the instruction to deliver them to a certain person who lived in the Assyrian capital: according to a collation done by me in 1932, l. 17 of this list mentions ten shekels *ša a-na ša-ri-im i-šá(!)-ú(!)*. (See also CCT IV 50<sup>b</sup>, 11.) Such occasional use of *šarrum* instead of *rubd'um* is, after all, not surprising since the latter term is virtually synonymous with Sumerian *lugal* "great man", "king". For *rubd'um* means as much as "he who is always great", "great par excellence"; cf. Landsberger, *Islamica* II, 1926, pp. 363 f.; J. Lewy, *KTBl.*, pp. 24 f.

<sup>65</sup> Perhaps it should expressly be stated that it would be a grave error to assume that the majority of the Assyrians of whom we hear in the Kültepe texts were successful merchants who, having traded for a number of years in the commercial centers of Asia Minor, returned to the Assyrian capital city. That, on the contrary, many Assyrian men and women spent their whole life in Asia Minor follows from numerous texts which attest intermarriage between Assyrians and non-Assyrians, either indirectly by showing how Assyrian and non-Assyrian names were current within one and the same family or directly by mentioning, e. g., that the daughter of a wealthy Assyrian married a "barbarian" (as for the details and the identity of the persons concerned, see *Symbolae Hrozný*, IV, 1950, pp. 374 f., note 49); cf. also *ICK* 3, the contract discussed above, pp. 8 ff., according to which Lâqîpum, when marrying at Kaniš a "native" woman as *aššatum*, pledged himself to marry at Aššur only a spouse of inferior status, whence it follows with fair certainty that his permanent domicile was to be at Kaniš. Nor is there any reason for believing that the Assyrians of Kaniš were exclusively concerned with the sale of goods which they imported from Babylonia, Mesopotamia and Northern Syria. The allusions to the rearing of cattle, sheep or swine which occur, for instance in the letters and business notes CCT III 7<sup>b</sup>+8<sup>a</sup>, CCT IV 15<sup>b</sup>, BIN IV 75, BIN VI 84, TC II 47, *Gol.* 13 and KTS 52<sup>a</sup> show that other activities were not alien to them. It goes almost without saying that these data militate against the views of those savants who characterize the Assyrians of Asia Minor as autonomous colonists living in precarious conditions in "Handelskommunen", i. e. apart from the "natives". This idea, which was never sufficiently substantiated (cf. my criticism in *Orientalistische Literaturzeitung* XXIX, 1926, col. 754), is, in fact, incompatible with the contents of documents such as *EL* 215 and TC III 255 which clearly imply that non-Assyrian "natives" and people of Assyrian extraction were neighbors and did not hesitate to buy plots of land from each other; for *EL* 215 relates that, being indebted to "the barbarian", Idi-Sîn ceded to the former and his sister Muza "the parcels behind the house", and TC III 255 states that the house in which an Ištar-na'dâ (cf. above, p. 4, note 11) was living was owned by a certain Išbunuman, who was willing to sell (or resell) it for three minas of silver. Similarly, we learn from *EL* 107 that a house owned by an Ikûnum was sold to a man who, to judge by his name Perrua, was a "native". This documentary evidence has now been confirmed by the results of the Turkish excavations at Kültepe. According to the preliminary report, *American Journal of Archae-*



to a *kumrum* ša Šar-ra-ma-ti-en<sup>66</sup>, that is a "priest of 'The King of the Two Lands' ".<sup>67</sup> It goes almost without saying that in drawing this conclusion we explain — and are at the same time supported by — those Greek geographical sources which, as was repeatedly noted in previous discussions of the Kültepe texts and their historical implications<sup>68</sup>, designate as Ἀσσυρία the northeastern part of Central

ology LV, 1951, p. 91, it was established "that the city of the colonists was not independent of Kanesh but a large quarter within the Anatolian city". See also H. Çambel, *Orientalia* XX, 1951, p. 247 who, while still using the unfortunate expression Handelskolonie, comes to the following conclusion: "Im grossen und ganzen gesehen aber zeigt sich die materielle Kultur der assyrischen Handelskolonie also als durchaus anatolisch und auch im weiten Sinne des Wortes "hethitisch" sowohl in der Architektur, in den Kleinfunden wie als auch in der Keramik . . . . ."

In consideration of the Assyrian habit of designating the "native" population as "barbarians" (*nu'á'u*), it can, on the other hand, hardly be denied that a certain more or less pronounced antagonism existed between Assyrians and non-Assyrians. An interesting trace of this antagonism, which may have slowly subsided during the period covered by the texts at present available, is found in the Ališar tablet No. 12 and in the unpublished texts VAT 6180 and 7674 which cannot be discussed here in detail. As I intimated in *Orientalia* XIX, 1950, p. 32, note 3 by quoting a few typical lines from VAT 6180, these documents concern the redemption by a fellow-citizen of one or several Assyrians from "the house of the barbarian"; in the instance dealt with in the fragmentary text VAT 6180, *Da-a-a* seems to assert that he redeemed first the wife and three sons of a certain *Šin<sup>in</sup>*. [ . . . . . ], subsequently the latter and finally his two daughters. Thus it appears that the Assyrians of Anatolia looked at a fellow-countryman's serfdom in an alien's house with the same feelings as did the ancient Israelites according to *Lev.* 25.47 ff. As indicative of an old antagonism between Assyrians and "barbarians" we may further adduce TC II 27, 12–14. As already stated in *Symbolae Hrozný*, IV, p. 438, in this passage a trader contemptuously characterized another one as follows: "The gentleman is close to the palace [scil. of Hurramaj]; "he continuously behaves like a barbarian."

<sup>66</sup> Thus in col. II, l. 2 of the left edge of VAT 9295; rev., l. x+7 has Šar-ra-ma-ti-in. For the context see EL I, p. 182, note c, where the divine name erroneously was printed in both passages as Šar-ra-ma-ti-in. [An additional reference to the "(Divine) King of the Two Lands" is contained in one of the valuable texts which, thanks to the kindness of the authorities of the Musée d'Art et d'Histoire of Geneva, I was able to study in July 1955. This document (MAH 16204) begins as follows: 2 bilātum 20 manā'u kaspum <sup>2</sup>ni-is-ša-sú watrā ša-d[u-a-sú] <sup>3</sup>ša-bu ša qí-ip-tí-šu <sup>4</sup>2/3 manā'em 5 šiglū ša qí-[ip-tí-šu] <sup>5</sup>15 manā'u kaspum ni-is-ša-[sú] <sup>6</sup>watrā ša-du-a-sú ša-bu <sup>7</sup>ša tamkarim <sup>8</sup>1 ri-ik-sú 15 šiglū <sup>9</sup>ik-ri-bu ša Šar-ma-ti-in <sup>10</sup>10 šiglū a qá-ra bi-tim <sup>11</sup>20 manā'u eri'um ik-ri-bu <sup>12</sup>ša Be-lim.]

<sup>67</sup> It will be noted that, from the linguistic point of view, this interpretation of the divine name is preferable to my former proposal (in *Zeitschrift für Assyriologie* 38, 1929, p. 246) to see in *ma-ti-in/en* not a dual but a by-form of the singular *mâtim*.

<sup>68</sup> Cf. Ed. Meyer, *Geschichte des Altertums*, I, 2<sup>3</sup>, Stuttgart und Berlin 1913, p. 611; J. Lewy, *OLZ* 26, 1923, col. 542; *ZA* 35, 1924, p. 148; *Reallexikon der Vorgeschichte*, VI, p. 217; *Encyclopaedia Judaica*, III, Berlin 1929, col. 552.

Anatolia<sup>69</sup>, thus indicating that the ancients actually knew of two domains of the god Aššur, each of which was duly named after him. In order not to be incumbered by the ambiguity which would result if, like the early Greek historians and geographers, we would denote either "land of Aššur" by the same name, it seems appropriate to designate Aššur's Anatolian dominion as "Halys Assyria"<sup>70</sup>. This designation is all the more indicated since it is not always feasible to follow the example of the writers of the Kültepe texts who, as we have seen, called Aššur's Anatolian possession "The Land" (*mâtum*).

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We are now prepared to enter into a discussion of the third question asked above<sup>71</sup>, viz. whether the seat of the government of "The Land" was at Kaniš. The answer to this question is found in *KTP* 14.<sup>72</sup> This somewhat damaged document, an official letter, the restoration of which was considerably furthered by Landsberger<sup>73</sup>, reads as follows:

<sup>69</sup> For lists of the pertinent sources see Ed. Meyer, *loc. cit.*, pp. 613 f.; Ruge in Pauly-Wissowa, *Realencyclopädie*, XII, 1925, col. 2291 f.; cf. also Nöldeke, *Hermes* V, 1871, pp. 446 ff.

<sup>70</sup> Thus in view of the location not far from the River Halys of the city of Kaniš which, as will be shown presently, was the administrative center of this dominion.

<sup>71</sup> See above, p. 13.

<sup>72</sup> A facsimile of this text of the University Museum in Philadelphia was published in *Journal of the Society of Oriental Research* XI, 1927, p. 119. Contrary to a remark by Landsberger (see presently), this facsimile was not made by Professor Stephens; see *loc. cit.*, p. 101. In view of Stephens' statement concerning the authorship of the facsimiles published *loc. cit.*, pp. 110-136, it seems in order to mention that, in a conversation which I had with him in 1928 at Bonn, the late Professor Chiera disclaimed his authorship of any of these copies. Hence we may conjecture that at least a part of them were made by Sayce who, according to an editorial remark in vol. IX (1918), p. 148 of *The Museum Journal*, "copied, translated and prepared for publication all of the Cappadocian Tablets in the Museum's collection".

<sup>73</sup> *Türk Tarih, Arkeologiya ve Etnografya Dergisi* IV, Istanbul 1940, pp. 26 ff. Landsberger's interpretation of this document differs considerably from ours. Inter alia, we fail to see why he dismissed l. 16 as unimportant (see *loc. cit.*, p. 27: "Während ich auf die Lesung von Z. 16 keinen Wert lege, ist für das Verständnis des Briefes die Wiederherstellung von Z. 7 f. und Z. 9 (vgl. 19) wesentlich."). But it may suffice to limit our criticism to his untenable assertions (*loc. cit.*, p. 28) concerning the expression *māmītam tammu'um* "to make (a person) swear an oath" (ll. 8 f. and 18 f.) which seem to be due to his failure to pay attention to the remarks of Thureau-Dangin, *RA* 24, 1927, p. 83. Thureau-Dangin's observations as to the factitive signification of *tammu'um/tummû* are, in fact, borne out by quite a few Old Assyrian passages. I refer especially to *KTS* 13<sup>b</sup>, a letter in which an Aššur-na'dâ (l. 1) informs his representative Idi-Sin (l. 2) and his "maid-servant", a certain Ši-ša-aḥ- <šū> -ša-ar

<sup>1</sup>[a]-na ší-i-[p-ri ša a-lim<sup>KI</sup>] <sup>2</sup>ú kà-ri-[im Kà-ni-iš] <sup>3</sup>[q]í-bi-ma um-ma kà-ru-[um] <sup>4</sup>[W]a-aḥ-šu-ša-na-ma <sup>5</sup>[r]u-ba-um ša Wa-áṣ-ḥa-n[i]-a <sup>6</sup>[iš]-pu-ra-am um-ma šu-ul-ma <sup>7</sup>[ku-sí]-a-am ša a-bi<sub>4</sub>-a <sup>8</sup>[aṣ]-ba-at ma-mi-tám(!) <sup>9</sup>[ta]-mì-a-ni um-ma ni-nu-[ma] <sup>10</sup>[kà]-ru-um Kà-ni-iš <sup>11</sup>[be-lu]-ni<sup>74</sup> ni-ša-pár <sup>12</sup>[šu-nu] ú-ul a šé-ri-[kà] <sup>13</sup>[i-š]a-pu-ru-nim <sup>14</sup>[ú-ul a šé]-ri-ni <sup>15</sup>[i-š]a-pu-ru-[ni]m <sup>16</sup>[š]i-na ša [m]a-ti[m] <sup>17</sup>i-lu-ku-ni-ku-ma <sup>18</sup>ù ma-mi-t[á]m <sup>19</sup>ú-ta-mu-[ú]-kà<sup>75</sup> <sup>20</sup>a-tù-nu ma-lá-ku-nu <sup>21</sup>té-er-ták-nu <sup>22</sup>li-li-kam <sup>23</sup>20 manâ'ê eri'am <sup>24</sup>a-na ší-i-[p-ri-ni] <sup>25</sup>ni-[dî-in] "1[T]o the env[oy]s of the city" <sup>2</sup>and (to) the kâru[m] Kaniš <sup>3</sup>[s]peak: Thus (said) the kâru[m] <sup>4</sup>[W]aḥṣušana: <sup>5</sup>The [p]rince of Wašḥan[i]a<sup>76</sup> <sup>6</sup>[s]ent (a message). Thus

(l. 3; cf. l. 15), of the claims he believes to have upon Kuzizia (l. 7) and goes on to instruct Idi-Sin in regard to the steps to be taken by the latter in connection with this affair. In doing so he writes: <sup>11</sup>né-ma-al kaspi<sup>71</sup>-a <sup>12</sup>ša iš-tù 10 ša-na-tim <sup>13</sup>i-be-e-lu <sup>14</sup>kaspa[m] ša-áṣ-gí-il<sub>5</sub>-šu-ma <sup>15</sup>a-na a-am-tim <sup>16</sup>dî-in šu-ma mi-ma <sup>17</sup>i-qá-bi<sub>4</sub> šu-ga-ri-a-am <sup>18</sup>ša A-šûr <sup>19</sup>li-il-ma-ma <sup>20</sup>ú li-il-ba-al-šu. Obviously, Ašur-na'dâ discusses in these lines two possibilities, viz. (1) that Idi-Sin receives the sum claimed by Aššur-na'dâ and is therefore in a position to hand it over to Šiṣaḥṣušar, and (2) that Kuzizia "wants to say something", i. e. rejects Aššur-na'dâ's claims. In this second case, Kuzizia would have to "swear by Aššur's hook-shaped emblem" (ll. 17<sup>b</sup>-19; on šugarri<sup>72</sup>um ša Aššur see *Orientalia* XIX, 1950, pp. 23 ff.), i. e. to declare under oath that Aššur-na'dâ has no claims upon him, the consequence being that he would keep [lit., "carry away"] the contested amount of silver. In these circumstances it is most significant that Aššur-na'dâ concludes this section of his letter in summing up his directives in the following terms: <sup>21</sup>a-pu-tum lá ta-ga-mi-il<sub>5</sub>-šu <sup>22</sup>ú-ul kaspa[m] <sup>23</sup>li-iš-gú-ul <sup>24</sup>ú-ul ta-mi-šu "21>Please! Do not treat him kindly! 22"Either <sup>23</sup>may he pay <sup>22</sup>the silver <sup>24</sup>or make him swear!" For we see here that in telling his representative how to act against Kuzizia Aššur-na'dâ employs the suffixed imperative II 1, ta-mi-šu, whereas previously, when pointing out the possibility that Kuzizia would rather swear than satisfy Aššur-na'dâ, he used the I 1 form *līmā*. See also below, p. 19, note 78.

<sup>74</sup> That this restoration is not too daring follows from *SUP* 7, the well-known letter by which the kârum Uršu reported to the kârum Kaniš how the Aššur temple of Uršu was ransacked by burglars; for this letter includes in ll. 20 f. the phrase a-ba-ú-ni be-lu-n[i] a-tù-nu.

<sup>75</sup> A glance at the autography of our text, as found in *JSOR* XI (see above, p. 17, note 72), shows that its unknown copyist drew an almost perfect *mu*, and that the insertion of *ú* (sic) between *mu* and *kà* meets with no difficulty at all; hence it is hard to see why Landsberger preferred the rather unusual reading *ú-ta-mu-ù-kà* about which he felt as uneasy as to make twice (*loc. cit.*, p. 27, note 2 and p. 28) a statement to the effect that "die erhaltenen Reste . . . nicht zu Ü stimmen."

<sup>76</sup> As was noted in pp. 13 f. of my contribution to the *Halil Edhem Memorial Volume* (Ankara 1947), Wašḥania figures in the itineraries *Gelb* No. 54 and *TC* III 165 as the first halt on the caravan road from Kaniš to the principalities of Waḥṣušana and Buruṣḥaddum. From the same sources it follows with fair certainty that it lay closer to Waḥṣušana than to Buruṣḥaddum. Hence it is not surprising to learn from *KTP* 14 that a prince of Wašḥania informed the kârum Waḥṣušana, and not the kârum Buruṣḥaddum, about his accession to his father's throne. — I should like to take this opportunity to correct a faulty quotation in note 14 of the article

(said) he (in his message): <sup>78</sup>I [acc]eded to <sup>7</sup>my father's [thr]one.<sup>77</sup>  
<sup>9</sup>Make me [sw]ear <sup>8</sup>the oath!<sup>78</sup> <sup>9</sup>(In answering this message) we (said) thus: <sup>10</sup>The [kâ]rum Kaniš <sup>11</sup>(is) our [superior].<sup>79</sup> We shall send (a message to the proper authorities). <sup>12</sup>(Thereupon) [they<sup>80</sup>] <sup>13</sup>will <sup>12</sup>either <sup>13</sup>[s]end (a message) <sup>12</sup>to [you] <sup>14</sup>[or] <sup>15</sup>they will [s]end (a message) <sup>14</sup>[t]o us.<sup>81</sup> <sup>16</sup>[T]wo (men) of the [g]overnment<sup>82</sup> <sup>17</sup>will come to you and then <sup>19</sup>they <sup>18</sup>also <sup>19</sup>will make you swear <sup>18</sup>the oath.<sup>83</sup> <sup>20</sup>It is up to

just cited which I had no chance to eliminate because the editors of the *Memorial Volume*, who received my manuscript in September 1939, saw no way of sending me proofs: the text referred to as N 72 is TC 72.

<sup>77</sup> On the restoration of [ku-si]-a-am and particularly on the expression *kussi'am šabâtum* see Landsberger, *loc. cit.*, pp. 27 f. (Landsberger's references to *ku-si-a-am* are to be corrected to BIN IV 162, 29 and OIP 27, 55, 18, respectively; see also J. Lewy, *Orientalia* XIX, 1950, p. 21, notes 2 and 3.)

<sup>78</sup> I. e. "Have [plural!] me swear the oath of allegiance!" That this special signification must here be attributed to the above-mentioned idiom *māmītum tam-mu'um* follows, inter alia, from the occurrence of *māmīt ilāniša rabāti . . . . . a-na arduṭte<sup>ut-le</sup> ú-tam-mi-šu-nu-ti* in the well-known passage, col. V, ll. 8 ff. of the "Prism Inscription" of Tiglath-Pileser I. As will be recalled, the Assyrian king relates here in the following terms how he dealt with the defeated kings of the Nairi-countries: "I came to have mercy <sup>10</sup>upon these kings <sup>11</sup>and <sup>12</sup>spared their lives. While they were captives <sup>13</sup>and in bonds, <sup>14</sup>I freed (them) <sup>15</sup>in the presence of Šamaš, my lord, <sup>16</sup>and <sup>16</sup>for vassalage I had them swear <sup>14</sup>an oath by <sup>15</sup>my great <sup>14</sup>gods <sup>15</sup>for future days, (even) for <sup>16</sup>ever." Similarly, his great predecessor, Tukulti-Ninurta I, reports in KAH II 60, 49 ff.: *šarrāni<sup>MEŠ</sup> mātāt Na-i-ri<sup>50</sup> šá-tu-nu i-na be-ri-ūt siparri kišādē<sup>MEŠ</sup>-šu-nu<sup>51</sup> ar-pi-iq a-na É-kurri Šadī<sup>i</sup> rabī<sup>i</sup> bīt tu-kúl-ti-ia a-na ma-ḥar<sup>d</sup> Aš-šur<sup>53</sup> bēli-ia lu-bi-la-šu-nu-ti ni-iš ilāni<sup>MEŠ</sup> rabāti<sup>MEŠ</sup> šá šamē<sup>e</sup> iršili<sup>i</sup> ú-tam-mi-šu-nu-ti<sup>56</sup> bīla ú ta-mar-ta a-na ūm<sup>um</sup> ša-a-ti<sup>56</sup> eli-šu-nu aš-ku-un.*

<sup>79</sup> Lit., "The *kârum Kaniš* (i. e. the men constituting the administration of the *kârum Kaniš*) are our [masters]." This laconic statement means as much as "without instructions from our superiors we are not entitled to take any action and can, therefore, not gratify you".

<sup>80</sup> I. e. the authorities concerned.

<sup>81</sup> The meaning of the lines 12–15 seems to be "You will either directly or through us be informed that the authorities concerned are aware of your readiness to swear the oath."

<sup>82</sup> On *mâtum* "government" see below, p. 21, note 87. As an analogue to the expression *šnā ša mâtim* "two government officials", we quote the term *ša êkallim* "a palace official" which occurs in CCT IV 7<sup>c</sup>, 4 ff.: *a sú-ri-e<sup>5</sup> a-na ma-ak-na-ki-im ša êkallim êkallam<sup>am4</sup> e-i té-ri-ša* "Would <sup>5</sup>for the (matter of the) sealed room <sup>6</sup>you had not asked the palace <sup>5</sup>for (a man) of the palace!" (The attempt of von Soden, *Grundriss der akkadischen Grammatik*, Roma 1952, p. 64 to attribute to *maknakum* [genitive: *maknikim*] the meaning "Urkunde" is incompatible with KTBI No. 14, 27 ff. and the passages quoted *ibidem*, p. 38.)

<sup>83</sup> That the *kârum Waḥšušana* predicts that the government would dispatch two representatives is not surprising since, as we shall presently demonstrate, the authorities were more or less wont to send two men whenever out-of-town business was involved.



you!<sup>184</sup> <sup>22</sup>Let <sup>21</sup>your directive <sup>22</sup>come here! <sup>25</sup>We [gave] <sup>24</sup>[our] messengers]<sup>85</sup> (an allowance of) <sup>23</sup>20 minas of copper."

As already intimated, according to this letter, the Assyrian magistrates of an important Anatolian town other than Kaniš expected that an oath of allegiance to be sworn by the ruler of a nearby principality (which may be looked for in the vicinity of Nevşehir<sup>86</sup>) would

<sup>84</sup> Or "20 We leave the matter entirely in your hands!" Cf. the frequent singularic *a-ta ma-lá-kà* (*Gol.* 15, 13 f.; *CCT* III 19<sup>b</sup>, 9 f.; *BIN* IV 28, 25 f.; *TC* III 74, 8; etc.) which interchanges with the fuller *a-ta a-ma-kam ma-lá-kà* (*BIN* IV 21, 25 f.; *TC* II 10, x+8 f.; etc.).

<sup>85</sup> We are inclined to see in *ší-i*[*p-ri-ni*] the genitive of *šiprāni*, and not of *šiparni*, because it follows from several texts that, as a rule, two men were charged with official missions even in those instances in which the task of the "messengers" was merely the delivery of a letter to the authorities of another town. I refer, above all, to *KTP* 10, a letter of the *wu-bar-tum ša Ša-lá-<tù>-ar* to the *kārum Waḥṣušana*, which concludes with the clause *x+14 I-dí-A-šûr û I-bi-sú-[a] x+15 ší-ip-ru-ni*; to *BIN* VI 120 (see ll. 6 ff.: [*A*] *-šûr-rabi û 7 I-ku-pí-a 8 ší-ip-ru-ú-ni*) and to *BIN* VI 8, a letter of the *kārum Kaniš* to "each and every *kārum*" which states in ll. 15 ff. *A-šûr-tâb 10 û Adí-lá-at 17 ší-ip-ru-ni*. Evidence to the same effect comes from *KTP* 6, a letter of the *kārum Kaniš* to the *rubâ'um Širmiṣa'um* (see ll. 5 ff.: *1 mañd'um kaspum ša-ru-pu-um 6 û 2 šiqlân hurâšum . . . . 7 A-bi-a-a û A-gu-a 8 ší-ip-ru-ni 9 na-âš-[ú-ni]-kum*), and from the fragmentary letter *TC* 40 which, according to collation, reads in ll. x+6 (sic) ff. as follows: *kaspam ru-ba-um li-ik-nu-uk-ma x+7 [i] ku-nu-ki-šu ší-ip-ru-ni* (left edge) *x+8 lu-ub-l[u-nim]*. Equally instructive is *Chantre* II, a letter by which the *k[ārum Z]alpa* (ll. 3 f.) notified the *šipr[á] ša ālim* (l. 1) and the *kārum [Kaniš]* (l. 2) of the arrival of a "tablet" from Aššur (see ll. 4<sup>b</sup> f.: [*pu*] *p-pu-um*) <sup>5</sup>[*iš*]-*tû a-lim*<sup>KI</sup> *i-l[i-kam]*) and goes on to say: *x+3 [ší-ip]-ru-ni x+4 [na-âš]-ú-ni-ku-nu-tí x+5 [i]-na* (thus according to collation) *ṭup-pi-ím ša a-[lim*<sup>KI</sup> *x+6 [kâ-r]u(!)-um Za-al-[pá] x+7 [lá-p]i-it . . . . .* Cf. also *KTS* 7<sup>b</sup>, 2<sup>b</sup> ff. (see *Symbolae Hrozný*, IV, 1950, p. 427, note 338) and *VAT* 6209, x+5 ff. (see below, p. 70, note 301).

<sup>86</sup> As was shown in detail in pp. 13 ff. of my above-cited article in the *Halil Edhem Memorial Volume*, the localization of Waḥṣania in the neighborhood of Nevşehir (about seventy kilometers west of Kayseri) results from the identification of Ninašša/Nanassos with Nenizi (circa forty kilometers east of Aksaray). Bilgiç, *Afo* XV, 1945-51, p. 20 with note 148 accepts the identification of Ninašša with Nanassos but rejects the identification of Nanassos with the present Nenizi, to all appearances because he considers the identification of the names Momoassos and Nenizi more plausible, and because some authors seek Nazianzos at, or in the neighborhood of, Nenizi. (Hence he looks for Waḥṣania in the vicinity of Incesu [about forty kilometers east of Nevşehir].) As surprising as this reasoning is Bilgiç's assertion (*loc. cit.*, p. 22, note 156) that I proposed "die Gleichung Šalatuwar=Salambriai, einem Orte der Garsauritis". The truth is that I rejected Hrozný's proposal to identify Šalatiwar with Šuwatara/Σάουττα and suggested (*loc. cit.*, p. 15) the identification of Šalatiwar "with the station of Salaberina of the Tabula Peutingeriana, the exact position of which is unknown, but which must be placed somewhere south of Helvadin at the foot of the Hasan Dağı". In other words, Bilgiç confounded my statement, in which Salambriai was not even mentioned, with a remark by Ramsay, *The Historical Geography of Asia Minor*, London 1890, p. 286, according to whom "Salambria seems to be the same as Salaberina".



be administered by men who, being sent by the Assyrian authorities of Kaniš, would act as representatives of "the land" or, to render *mâtum* more adequately, "the government".<sup>87</sup> Thus we see here that the territory governed from Kaniš was by far larger than that of an average city-state. It will be noted that this evidence is supplemented by the contents of the document *EL* 247, according to which "the palace", i. e., no doubt, the palace of Kaniš<sup>88</sup>, effectuated the return of two traders and their merchandise from *a-al Sí-sí-im*. As this town can safely be identified with Sisium/Sis<sup>89</sup>, the comparison of *KTP* 14 with *EL* 247 results, in fact, in a relatively clear picture of the extent of at least one of the regions in which the authorities established at Kaniš or, as we prefer to say, the government of Halys Assyria exerted their power.<sup>90</sup>

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As regards the last of the questions raised by the oath formula of *ICK* 32 — the question as to whether the head of the government of Halys Assyria used to be designated as *rubâ'um* —, attention must be paid above all to *CCT* III 44<sup>b91</sup>, a letter written by Asânum<sup>92</sup> in order

<sup>87</sup> That *mâtum* means sometimes as much as "government" follows, inter alia, from the habit of Neo-Assyrian scribes to write A.BA KUR instead of A.BA É.GAL.

<sup>88</sup> Cf. the texts cited below, p. 24, note 103 in fine.

<sup>89</sup> On the identity of *Sisûm* and *Sis* (now Kozan [about sixty kilometers north-north-east of Adana]) see most recently *Symbolae Hrozný*, IV, p. 400 with notes 167 and 168.

<sup>90</sup> The conclusion that the region between Ninašša/Nanassos/Nenizi and *Sisûm*/*Sisium*/*Sis* is among those parts of Anatolia which figure in the Kültepe texts is strongly supported by the obvious identity of *Bališša* (see *KTHahn* 40, 2: *i-na Ba-li-ša-im*) with Ibn Ḥurdābīh's *Balīsa* (i. e. the modern Valisa [about 20 kilometers due north of Tyana]; cf. Honigmann, *Die Ostgrenze des Byzantinischen Reiches*, Bruxelles 1935, pp. 45 f.).

<sup>91</sup> *CCT* III 44<sup>b</sup> reads as follows: <sup>1</sup>*um-ma A-sâ-num-ma a-na* <sup>2</sup>*A-ni-na-a qí-bi-ma* <sup>3</sup>*lu(!) áš-pu-ra-ku-um* <sup>4</sup>*um-ma a-na-ku-ma* 90 *šubâtî* <sup>5</sup>*damqûtim e-zi-ib* <sup>6</sup>*a-pu-tum mî-at šubâtî* <sup>7</sup>*!A* <sup>8</sup>*damqûtim wa(!) <at>-ru-tim* <sup>9</sup>*lu i-na Tê-ga-ra-ma* <sup>10</sup>*lu i-na Ba-ra-dî-im* <sup>11</sup>*e-zi-ib a šu-mî* <sup>12</sup>*Damqim* <sup>13</sup>*šá-lim(!)-ma* <sup>14</sup>*mî-ma li-ba-ak-nu* <sup>15</sup>*á i-pá-ri-id(!)* <sup>16</sup>*a-na-kam ru-ba-um* <sup>17</sup>*ú-ma-nam a-na* <sup>18</sup>*pá-ni-ku-nu i-tá-ar-dam* <sup>19</sup>*e-ma-ri ra-qú-tim* <sup>20</sup>*a-na na-áb-ri-tim* <sup>21</sup>*di-i e-ma-ri* <sup>22</sup>*da-nu-tim a-ni-ša-am* <sup>23</sup>*é-ri-ba-am* <sup>24</sup>*10 manâ'ê eri'am dammuqam* <sup>25</sup>*E-nu-Be-lúm* <sup>26</sup>*na-áš-a-ku-um*.

<sup>92</sup> From *TC* III 18, *TC* III 99, *BIN* VI 78, *CCT* II 32<sup>a</sup>, *CCT* III 39<sup>a</sup>, *BIN* IV 96 and a few other texts it follows that Asânum was a trusted employee of Aššur-muttabil and Buzâzu, the sons of Pûšu-kên, whose activities as importers of cloths, lead etc. are known from scores of letters and legal documents. When not present at Kaniš (where he appears, for instance, shortly after Pûšu-kên's death), Asânum served his principals as caravan-leader and as buyer of goods to be imported from Aššur.

to transmit instructions to a certain Aninâ<sup>93</sup> who was en route to Cappadocia with a considerable shipment of valuable cloth. For here we learn not only of the presence at Kaniš of a *rubâ'um* but also of the help an endangered caravan could expect to receive from his armed forces: Beginning with a recapitulation of a previous order to "leave", i. e. "leave behind" in a safe place ninety bales of fine cloth (ll. 3-5)<sup>94</sup>, Asânum advises Aninâ that he should rather leave behind a hundred bales of fine cloth of the best quality either at Tegarama or at Baraddum (ll. 6-10<sup>a</sup>).<sup>95</sup> After a statement to the effect that a certain Dam-

<sup>93</sup> As is learned, inter alia, from *BIN* VI 67 and *TC* III 97, Aninâ was employed by the same traders and charged with the same tasks as Asânum in whose company he figures in the memorandum *BIN* IV 169 and the afore-mentioned letter *CCT* II 32<sup>a</sup>; in *EL* 249 he acts at Kaniš in the interest of his colleague Asânum.

<sup>94</sup> From the contents of other texts it seems certain that this order had been given with the understanding that the bales of cloths to be left behind would be transported by a later caravan which would bring them safely to their destination. I refer especially to the letters *Oxford* 433 and *TC* 18 which make it clear that, when valuable merchandise had to be carried through a region supposed to be unsafe, one reduced the risk of losing the entire shipment by dividing the caravan and setting its second half in motion only after the first half was reported to have reached its destination without losses; cf. my remarks in *Symbolae Hrozny*, IV, 1950, p. 421 with notes 310 and 311 and in *Orientalia* XXI, 1952, pp. 288 f.

<sup>95</sup> The information furnished by this passage, viz. that certain caravans carrying goods from Aššur to Anatolia passed through Tegarama and Baraddum, is supplemented by ll. 8-23 of the "itinerary" *CCT* 29 which, in addition to recording the cost of dispatching a messenger *a* (!) *Te(!)-ga(!)-ra-ma* (ll. 8<sup>b</sup>-10), lists various amounts spent *i* *Za-al-pá* (l. 11), *i* *Ba-ra-dí-im* (l. 15) and *i* *Ha-ra-na* (l. 23). In concluding from this enumeration of travelling expenses, as well as from *CCT* III 44<sup>b</sup>, ll. 6-10<sup>a</sup>, that Tegarama, Baraddum and Harana lay within much the same part of Anatolia we are borne out by two or three pieces of evidence supplied by well-known Boğazköy texts: much as *KBo* I 1 (obv., ll. 11 ff. and 20 ff.) lists *mi-iš-lu ša mât* <sup>ál</sup>*Te-ga-ra-ma* immediately after <sup>UR</sup>*SAG* *Ha-ra-na*, *KBo* IV 4 (col. III, ll. 19<sup>b</sup> ff.) relates that king Mušiliš, having arrived at <sup>UR</sup>*Te-ga-ra-am-ma*, went on to <sup>UR</sup>*Har-ra-na*; since he met his army there, Harana can be supposed to have been located on a main-road, as is also indicated by our Old Assyrian sources. In consideration of the fact that a brief itinerary (*Giessen* 3-17; see *Symbolae Hrozny*, IV, 1950, p. 419, note 294) mentions *Té-ga-ra-ma* (l. 3) before *Sú-pá-na* (l. 12), i. e. before the ancient capital of Σωφηνή (see *loc. cit.* and cf. Hübschmann, *Indogermanische Forschungen* XVI, 1904, pp. 295 ff.), we can further infer that the ancient town of *Ha-ra-na* is identical with "Tell Charan", a village which figures on the Prussian map 1:800 000 (sheet "Trapezunt") of 1916 about thirty kilometers southeast of Erganimaden in the immediate vicinity of the road Erganimaden — Dijâr Bekr. This tentative localization of *Ha-ra-na* in the neighborhood of the famous copper mines of Erganimaden seems to be supported by the letter *KTHahn* 14 in as much as *Ha-ra-na* appears here in connection with the procurement of ten thousand minas of copper.

qum<sup>96</sup> was safe<sup>97</sup> and that, accordingly, Aninâ and his companions needed not to be concerned about him (ll. 10<sup>b</sup>–13)<sup>98</sup>, he further tells the caravan leader that “here”, i. e. at Kaniš<sup>99</sup>, “the prince dispatched troops to meet you”<sup>100</sup> (ll. 14–16). Obviously “the prince” referred to in these lines was as ready to protect goods en route to Kaniš as was “the palace” mentioned in the following passage of the letter *KTHahn* 13: “<sup>5</sup>Abu-ilum is transporting to you <sup>4</sup>two hundred and twelve bales of fine cloth of superior quality. <sup>6</sup>If you can shelter them, <sup>7</sup>do so; if <sup>8</sup>you cannot <sup>7</sup>shelter them, <sup>9</sup>bring them up<sup>101</sup> <sup>8</sup>to the palace <sup>9</sup>and <sup>10</sup>let <sup>9</sup>the pa[lace] <sup>10</sup>t[a]ke the toll<sup>102</sup> and (afterwards) <sup>11</sup>bring the bales of

<sup>96</sup> The same person is mentioned in *CCT* III 39<sup>a</sup>, another letter of Asânum (cf. above, p. 21, note 92); see ll. 6<sup>b</sup> ff.: 12 manâ'ê <sup>7</sup>annakam A-šur-e-nam <sup>8</sup>mêr Damqim ub-lá-kum. Cf. further *EL* 246, B 1: kunuk Šu-Be-lim mêr Damqim<sup>im</sup>.

<sup>97</sup> As for the reading ša-lim(!), see, for instance, *CCT* II 38, 33 and *CCT* IV 14<sup>b</sup>, 4 f. (bîrîl-kà ša-lim mî-ma <sup>5</sup>li-ba-kà lá i-pá-ri-id).

<sup>98</sup> That l. 13 must be emended to lá i-pá-ri-id(!) follows, inter alia, from *CCT* IV 14<sup>b</sup>, 4 f. (see the preceding footnote) and from *CCT* IV 15<sup>b</sup>, 4 ff.: šál-ma-ku mî-ma li-ba-ki lá i-pá-ri-id, i. e., literally, “I am well! let your heart not tremble in any respect!”

<sup>99</sup> That *annakam* “here” means in our passage “at Kaniš” will not be doubted if it is recalled (1) that the letter here under discussion was unearthed at Kaniš where, as is well known, copies of outgoing letters were kept (cf. *CCT* II 6, 14 f.: mî-ma šup-pî ša uš[!]-té-ni-ba-lá-ku-ni <sup>15</sup>me-eh-ri-šu-nu ú-kà-al), (2) that, as a rule, Kaniš was the destination of the caravans which carried cloths, and (3) that, when not on the road, Asânum and Aninâ stayed at Kaniš (cf. above, pp. 21 f., notes 92 and 93).

<sup>100</sup> Our rendering of a-na <sup>16</sup>pá-ni-ku-nu is based upon passages such as *Leiden* 1205, rev., 5 ff. (i-nu-mî e-lá-tám <sup>5</sup>ta-ša-me-ú [thus according to an inspection of the original!] a-na <sup>6</sup>ma-ša-ra-tim <sup>7</sup>a-na pá-ni-a <sup>8</sup>šî-a-am) and *KTS* 14<sup>a</sup>, 14<sup>b</sup> ff. (ù-lá <sup>15</sup>a-na a-na pá-ni-a <sup>16</sup>šî-a-am ù-lá Ku-ra <sup>17</sup>šu-up-ra-ma šubâtî<sup>H</sup>1.A <sup>18</sup>šî-tî annikim <sup>19</sup>emârî<sup>H</sup>1.A <sup>20</sup>lá-ap-qî-sú-um “Either <sup>16</sup>come out <sup>15</sup>to meet me <sup>16</sup>or <sup>17</sup>send me <sup>16</sup>Kura <sup>17</sup>in order that <sup>20</sup>I may hand over to him <sup>17</sup>the cloths <sup>18</sup>and the remainder of the lead <sup>19</sup>and the donkeys!”). Cf. further *TC* III 105, 13 f. (šu-ma um-mî a-tî a pá-ni-a <sup>14</sup>té-er-tî-ki li-li-kam), *CCT* 36<sup>b</sup>, 1 ff. ([x] manâ'ê kaspam <sup>21</sup>šup-pî-e a-na <sup>3</sup>pá-ni A-na-lí <sup>4</sup>ú-šé-bi-ú<sub>5</sub>) and *TC* III 162, 6 ff. (1/2 manâ'em kaspam ša 1 1/2 šiqlim <sup>7</sup>šá-je-er-tám a-na pá-ni-šu <sup>8</sup>ú-šé-bi-ú<sub>5</sub>).

<sup>101</sup> Lit., “cause them to go up”.

<sup>102</sup> Lit., “their extractions” (*nishâtîšunu*). As for the tariff which regulated the payment of this fee, see for the present *EL* I, p. 219 (221), note a. That the *nishâtum* were not so much a customs duty as a toll for the service of sheltering goods or for similar services follows with some certainty from references to *nishâtum* levied or to be levied at Aššur from shipments of silver and gold. For some of the pertinent sources leave no doubt that these *nishâtum* accrued to individual merchants or commercial firms and not to any local authorities. I refer, above all, to the letter *TC* III 54 by which Imdi-ilum advised his associates and representatives at Aššur of the purpose of a shipment of 20 minas of silver en route with Pilaḥ-Ištar. After stating, inter alia, that the latter would inform them about the merchandise to be bought for this silver, Imdi-ilum continued as follows: kaspam <sup>18</sup>er-ša-šu-ma a-šar

cloth down."<sup>103</sup> In considering it a matter of course that the "palace" mentioned in this typical passage was the seat of Assyrian authorities, we are supported by the fact that the *wardum ša êkallim* who figures in *KTS* 55<sup>b</sup> bore the Assyrian name *Ās-qû-dum*.

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A few years ago, it could be assumed that the data to be gathered from the above-discussed letters and from the memorandum *Gelb* No. 58, which will be analyzed below, pp. 31 ff., were not the only pieces of information enabling us to answer in the affirmative the most intriguing of the four important questions arising from the occurrence in *ICK* 32 of an oath "by Aššur, Anna and the *rubâ'um*". Direct supplementary evidence permitting to define the *rubâ'um Kanišî'um* or "prince of Kaniš"<sup>104</sup> as an Assyrian seemed to come from a seal impression on *ICK* 29, i. e. on the envelope of a document drawn up when one Amur-Šamaš bought from a certain Ušurânium two slaves characterized as Assyrians by their names Mannum-kî-abia and Wêr-bâni.<sup>105</sup> For in view of the fact that, to judge by some

<sup>103</sup>*ni-a-ti ni-is-ša-tum* <sup>20</sup>*li-ni-is-ša*. Cf. further *KTS* 15 (see ll. 5<sup>b</sup> f.: *ú bît 6**ša-ni-ú-tim ni-is-ša-tim i-na-sú-šu*), *BIN* IV 32 (see ll. 29<sup>b</sup> f.: *ma-lá ni-is-ša-tum 30**bît um-mi-a-ni-a i-na-sà-ša-ni 31**mì-il<sub>6</sub>-kà-ma . . .*) and *TC* III 68 (see ll. 11 ff.: *ni-is-ša-ti-šu li-qí-a-ma 12**š-ti kaspim ša tamkarîri 13**ni-is-ša-ti-šu i-dá*).

<sup>104</sup>The term *pazzurum* "to shelter" (cf. also *CCT* III 40<sup>a</sup>, 12 ff.: *šu-ma mî-ma šubâtî*<sup>H1.A</sup> <sup>13</sup>*i-na pá-zu-ur-tim 14**er-zi-ib*) referred not so much to the storing of incoming merchandise as to its protection against robbery and similar dangers. This follows, inter alia, from *CCT* IV 18<sup>a</sup>, 14 ff.: *a-pu-tum a ma-lá [a-w]-a-at 15**[t]up-pí-a i-ši-id-ma 16**mî-ma lá tú-pá-za-ar ma-ša-ra-tum 17**[d]a-na* "Please! In accordance with the [wo]rds of <sup>15</sup>my tablet be careful and <sup>16</sup>do not shelter anything! (The highway is safe because) the guards <sup>17</sup>are strong!". The aversion to any unnecessary "sheltering" of merchandise, as reflected in this passage of *CCT* IV 18<sup>a</sup>, finds its explanation in the fact that the organization which afforded shelter (i. e. in the instances here under examination "the palace" of Kaniš) insisted upon the payment of *nishâtum* as well as upon a right of pre-emption. Among the numerous business notes and letters pertaining to the "sheltering", "entering" (*erâbum*) or "depositing" (*nadâ'um*) of the incoming goods in "the palace" of Kaniš I cite here, in addition to *KTHahn* 13, *TuM* I 27<sup>c</sup>; *TC* 98; *CCT* III 26<sup>b</sup>; *CCT* IV 11<sup>a</sup>; *TuM* I 25<sup>e</sup>; tablets showing that the palace charged *nishâtum* (to be paid in kind) and frequently availed itself of its right of pre-emption are *BIN* IV 29; *BIN* IV 61; *TC* 98; *TuM* I 27<sup>e</sup>; *CCT* IV 11<sup>a</sup>; *CCT* II 5<sup>b</sup>; *CCT* II 6; *CCT* II 25; *CCT* III 26<sup>b</sup>; *CCT* III 28<sup>b</sup>; *TC* III 34; *TC* III 158; *Oxford* 425; *VAT* 9225.

<sup>104</sup>As was repeatedly noted (see lastly *Symbolae Hrozný*, IV, p. 399, note 163), the expression *rubâ'um Kanišî'um* occurs twice in the badly damaged text *KTP* 4.

<sup>105</sup>The inner tablet (hereafter quoted as A) of *ICK* 29 runs as follows: <sup>1</sup>*Ma-nu-ki-a-bi<sub>4</sub>-a 2**û We-er-ba-ni 3**išti Ū-šû-ra-nim 4**A-mur-Šamaš iš-am 5**šî-im-šu-nu 6**Ū-šû-*

documents from Iščālī, by certain Neo-Assyrian contracts and by other data, deals involving the sale of slaves who belonged to the same ethnical element as the dominant population of the country used to be closed before the king's highest local representative, it was permissible to combine the contents of the document *ICK* 29 with the appearance on *ICK* 29 B of a seal legend beginning with the words <sup>1</sup>A-šūr <sup>2</sup>LUGAL <sup>3</sup>Ši-lu-[lu]<sup>106</sup> <sup>4</sup>išši'ak<sup>107</sup> [ . . . . . ]. Consequently, the seal impression b of *ICK* 29 B seemed to establish that the highest authority to be

ra-nu-um <sup>7</sup>ša-bu (rev.) <sup>8</sup>maḥar Ši-lu-lu <sup>9</sup>maḥar Puzur-SA.TU. The wording of the case-tablet (B) is the following: (seal impression a) <sup>1</sup>kunuk Ši-lu-lu <sup>2</sup>kunuk P[u]zur-Ša-du[e] <sup>3</sup>kunuk Ū-šū-ra-nim (seal impression a; lower edge: seal impression a; rev., seal impression b) <sup>4</sup>ša ši-im Ma-nu-um-ki-[a-bi-a] <sup>5</sup>ū We-er-ba-ni <sup>6</sup>Ū-šū-ra-nu-um <sup>7</sup>ša-bu-ú-ma <sup>8</sup>a-na A-mur-dŠamaš (upper edge) <sup>9</sup>la i-lū-ru (seal impression c; left edge: seal impression c). Since we learn from the seal impression a that the legend <sup>1</sup>Ū-šū-ra-num <sup>2</sup>mēr Ku-tā-a was engraved on the seal cylinder used by Ušurānum (A 3; 6; B 3; 6), it is possible to gather from other Kültepe texts some information about the man from whom, according to A, 1-7 and B, 4-9, Amur-Šamaš bought Mannum-ki-abia and Wēr-bāni. From the pertinent data, which will be adduced below, pp. 73 ff., it follows not only that Ušurānum resided at Kaniš but also that our document *ICK* 29 originated in the same period as the bulk of the Kültepe texts so far published.

<sup>106</sup> Contrary to the impression conveyed by von Soden, *Das akkadische Syllabar*, Roma, 1948, p. 46 sub 109, the sign *ŠI* occurs occasionally in Kültepe texts; see *TC* III 173, 5: *iš-ti Tāb-ši-lā-A-šūr*. In the light of the well-known rule according to which Akkadian shifts *ša*, *sa* and *ša* to *še*, *se* and *še*, respectively, the name *Ši/e-lu-lu* may well be regarded as identical with the noun *šalūlu* (Delitzsch, *HWB* 568<sup>b</sup>). As for the absence of the mimation, cf. Gelb, *Old Akkadian Writing and Grammar*, Chicago 1952, p. 200. (The "younger" variant with mimation is attested in tablets from Tell Asmar; see Gelb, *Sargonic Texts from the Diyala Region*, Chicago 1952, p. 227 sub *Zi-lu-lum*.)

<sup>107</sup> PA.TE.SI. That *išši'akkum* was the Old Assyrian equivalent of PA.TE.SI was correctly noted by Landsberger and Balkan when they published the two copies (*kt. a/k* 353 and *kt. a/k* 315) of the Irišum inscription unearthed at Kültepe; see *Belleten* XIV, No. 54 (April 1950), p. 230. However, their assertion that Sumerian *en-si-a(k)* and, accordingly, Old Assyrian *išši'akkum* mean "Stadtfürst" and, especially, the contentions with which they attempt to support this rendering prove untenable in the light of the following data which, in addition to showing that the domain of an *ensi* could comprise a territory larger than a city or city-state, refute their dictum that "die Verbindung 'ensi des Stadtgottes'" was "fremd" to the Sumerians: (1) Entemena, the well-known *ensi* of Lagaš, was *ensi-gal dNin-gir-su-ka*; (2) in col. I, ll. 15 f. of his "Nippur Inscription", Lugal-zaggisi calls himself *ensi-gal dEn-líl*; (3) according to col. II, l. 21 ff. of the same inscription this powerful king was proclaimed *ensi kur-kur-ra*; (4) the next ruler to assume the title *ensi-gal dEn-líl*, Lugal-zaggisi's conqueror, Šarrum-kên of Akkad, rendered it in the Akkadian version of the Nippur text *CBS* 13972 by *ENSI dEn-líl*; (5) Warad-Sin figures in the afore-cited inscription from Ur (see above, p. 12, note 54) as *ensi* of Ur, Larsam, Lagaš and of the land of Kutalla.



found at Kaniš was an *išši'akkum* of Assyrian nationality who professed on his seal the belief in Aššur's divine kingship by means of the creed-like formula "Aššur is king" which recurs on *kt. a/k* 315<sup>108</sup> in the exclamation "Aššur is king, Irišum is (priestly) prince of Aššur" (*dA-šūr LUGAL I-ri-šu-um PA*<sup>109</sup> *A-šūr*) and thus proves to have

<sup>108</sup> On this important text see the preceding footnote and cf. presently, note 109.

<sup>109</sup> In consideration of the interchange of *I-ri-šu-um PA A-šūr* (*kt. a/k* 315, obv., l. 1 and rev., l. 1; *kt. a/k* 353, obv., l. x+24) and *I-ri-šu-um i-ši-a-ak A-šūr* (*kt. a/k* 315, obv., l. 4 and lower edge, l. 4) we concur with Landsberger and Balkan (*loc. cit.*, p. 230) in concluding that PA is an abbreviation of PA.TE.SI, even though they err in asserting (*loc. cit.*, p. 226, note 16) that *kt. a/k* 315 offers in line "36" = rev., l. 1 (pl. XXV, fig. 17; cf. pl. XX, fig. 8) *i-ši-a-ak* instead of the sign PA of the corresponding passage in *kt. a/k* 353. On the other hand, there is at present no reason for deducing from the occurrence of this abbreviated spelling of the full title *išši'ak Aššur* that bearers of this title were the father and grandfather of the personage figuring in *TC* III 264, B, l. 1 as *Šu-Be-lúm mēr PA* and in the inscription of the seal impression b of the same envelope as *Šu-Be-lum mēr En-na-[Šin] mēr PA*. In consideration of the well-known Middle Assyrian use of PA (var. PA<sup>lum</sup>) as ideogram of *waklum* (< *waklum*), and since the Old Assyrian document *EL* 327 and the official letter *ICK* 182, as well as *CCT* IV 32<sup>a</sup>, *KTS* 30, *KTS* 31<sup>a</sup> and *VAT* 9285, attest the presence at Aššur of a high-ranking official designated as *wa-ak-lúm*, it is, in fact, logical to infer from *TC* III 264 B (1) that both Enna-Sin and his father were holders of the *waklum*-office and (2) that the position of the *waklum* was, if not always, at least sometimes held by members of the same family. Support for this conclusion comes from the afore-cited fragmentary letter in the Fisher Collection which, as we must now mention, was written by *En-na-[Šin]* (cf. *BIN* VI 21, 1; 22, 1!) and addressed in part to *I-lá-a* and *E-lá-lá* (cf. *BIN* VI 22, 2 ff.!) and in part (rev., ll. x+6 ff.) to *A-šūr-dšamšiši* (cf. *BIN* VI 22, 2!). As was already noted above, p. 14, note 63, the message conveyed by this letter refers in l. 4 to 8½ minas and 2 shekels of *ḫusârum* (i. e. of iron or haematite; see *Israel Exploration Journal* V, 1955, pp. 155 ff.) and goes on to state in ll. 8 f. that one half of the *ḫusârum* was the property of Enna-Sin, the other half being that of the god Aššur, who figures here as *LUGAL a-lim*. Since, furthermore, three of the afore-listed letters of the *waklum* include the rare phrase *maḥar Aššur u ilia akarrabakkum* and, accordingly, imply that the *waklum* had access to the interior of Aššur's sanctuary, that partnership of Enna-Sin and the patron-god of the Assyrian metropolis can hardly be considered insignificant or coincidental. Enna-Sin's close connection with the god Aššur and his possession of a considerable amount of *ḫusârum* prove even more suggestive if we remember, on the one hand, that so influential a businessman of Kaniš as was Pûšu-kên failed in an attempt to obtain through his agent Puzur-Aššur that rare and coveted metal from the *bît lîmim* at Aššur (see *TC* II 9, 1 ff.: *a-na Pu-šu-ki-in qî-bi<sub>4</sub>-ma<sup>2</sup>um-ma Puzur-A-šūr-ma<sup>3</sup> a<sup>3</sup> šu-mî a-mu-tim ù ḫu-sà-ri<sup>4</sup>ša ta-áš-pu-ra-ni bît li-mî-im<sup>5</sup> ù-lá i-du-nu*) and, on the other hand, that in one of the above-mentioned messages a *waklum* informed Pûšu-kên that a certain Asqudum (who is known to have been in Pûšu-kên's employ) received from the *waklum*'s father for transportation to Cappadocia other goods as well as five minas and five shekels of *ḫusârum* of the best quality (see *KTS* 30, 12 ff.: *2 bilâtum 5 manâ'ê annakam 30 ku-ta-ni<sup>12</sup> emârî ṣa-lá-mî 5 manâ'ê 5 ṣiqlû<sup>14</sup>ḫu-sà-ra-am damqam wa-at-ra-am<sup>15</sup> 11 ṣiqlû a-mu-tum ki-iš-ru-um<sup>16</sup> mî-ma a-ni-im*



been current as early as the Old Assyrian epoch.<sup>110</sup> Recently, however, Dr. Kemal Balkan<sup>111</sup> proved on the basis of seven more or less fragmentary case-tablets found at Kültepe during the excavations of 1949 and 1950 that the legend of the seal impression b of *ICK* 29 B must be restored to <sup>1</sup>A-šûr<sup>KI</sup> <sup>2</sup>LUGAL <sup>3</sup>Ši-lu-lu <sup>4</sup>išši'ak A-šûr<sup>KI</sup> <sup>5</sup>mêr

a-na Ás-gú-dim <sup>11</sup>a-bi-i i-dí-in). In other words, the analysis of some of the letters relating to *husárum* shows that, in distinction from other persons, both the *waklum* and an Enna-Sîn were in a position to obtain large amounts of the precious metal. Since it follows, on the other hand, from *TC* III 264 B that an Enna-Sîn was known by the title PA, we are led to the conclusion that, if not followed by the name of a city, the sign PA served as ideogram for *waklum*, as it did subsequently in the Middle Assyrian epoch, and that an Enna-Sîn was among the successive holders of the *waklum*-office the importance of which is illustrated by *EL* 327 and its much-discussed seal impression and now also by *ICK* 182. This conclusion is in line with the following data which supplement the precious piece of information gathered from the case-tablet *TC* III 264 B and the legend of its seal impression b: (1) according to the short letter *KTS* 31<sup>a</sup>, a *waklum* sent *ana tadmiqtim* a small amount of lead to Šû-Anum mêr Enna-S[în] and assured him that he, the *waklum*, would pray for him "before Aššur and my god". (2) In *TC* 45, i. e. in a letter which Innâa, a reputed merchant of Kaniš (see *Symbolae Hrozný*, IV, p. 376, note 52 in fine and p. 424), received from a Šû-Bêlum, the latter refers to the former's friendly relations with Šû-Anum and asks him to act on his behalf in the event of Šû-Anum's absence, his request being that Innâa help to collect sums due to Šû-Anum and hand them over to the šiprû ša âlim who, in turn, should carry them to Šû-Bêlum. The implications of these data are obvious: The man who figures in *TC* III 264 as Šû-Bêlum mêr PA and Šû-Bêlum mêr Enna-[Sîn] mêr PA was a brother of that Šû-Anum mêr Enna-S[în] who appears in *KTS* 31<sup>a</sup> as an intimate of a *waklum*; moreover, thanks to his father's rank, Šû-Bêlum's social position and his influence were such that he could count on the readiness of the šiprû ša âlim to render him the service of shipping for him silver to the Assyrian capital city.

<sup>110</sup> That these words are a sort of watchword or creed proclaimed and repeated throughout the centuries follows from the fact that the ritual restored by K. Fr. Müller, *MVAeG* 41, 3 (1937), pp. 8 ff. by joining the fragmentary texts *KAR* 216, *KAR* 135 and *KAR* 137 includes, in col. I, ll. 27 ff. (thus according to Müller's numeration), a passage to the effect that "[t]he priest of Aššur . . . . . speaks before them thus: 'Aššur is king! Aššur is king!'" . Note further that l. 15 of a prayer for Aššur-bân-apli (*VAT* 13831, published and discussed by Weidner, *Afo* XIII, 1939-41, pl. XIII and pp. 210 f.) consists of the exclamation: <sup>d</sup>Aš-šur LUGAL <sup>d</sup>Aš-šur-ma LUGAL <sup>ma</sup>Aš-šur-ban-[apli . . . . .] <sup>d</sup>Aš-šur bi-nu-ut gâtêII-šû.

<sup>111</sup> *Observations on the Chronological Problems of the Kārum Kaniš*, Ankara 1955, pp. 54 f. When, thanks to the author's kindness, I received this valuable publication in March 1956, the present paper was in the hands of the printer. Unfortunately, I was therefore compelled to limit myself to a few modifications and insertions rendered necessary by Dr. Balkan's most welcome restoration of the "Šelûlu seal" here under discussion. But I expect to be able to state elsewhere why I consider erroneous his interpretation of the interesting new letter *kt. f/k* 183 (*op. cit.*, pp. 73 f.) and why, in my opinion, his other arguments against what he calls my "Grossreichstheorie"

*Da-ki-ki* <sup>6</sup>*nâgir âli A-šûr*<sup>KI</sup> “<sup>1</sup>Aššur <sup>2</sup>is king! <sup>3</sup>Šelûlu, <sup>4</sup>(priestly) prince of Aššur<sup>IIIa</sup>, <sup>5</sup>the son of Dakiki, <sup>6</sup>the city herald of Aššur”. Moreover, his observation that two of those seven fragmentary case-tablets begin with the statement *kunuk Ši-lu-lu mēr Ū-ku* but mention no other Šelûlu carries with it the conclusion that the witness to the slave sale recorded in *ICK* 29 was not the original owner of the “Šelûlu seal”. But Balkan’s inference (*op. cit.*, p. 55) that “the old Šilûlu, son of Dakiki, was an independent *iššakku* of Assur in the

(*op. cit.*, p. 71) are not convincing. His treatment of the impression of the “Šarrum-kên seal” previously found only on the case-tablet *EL* 327 and on the case fragment in the Giessen Collection of Kültepe texts (which Balkan, *op. cit.*, p. 51 erroneously locates at Jena) was virtually anticipated below, p. 78, note 332.

<sup>IIIa</sup> In distinction from Balkan, *op. cit.*, p. 55, who attributes to *išši’ak* (=PA.TE.SI) *A-šûr*<sup>KI</sup> the signification “the city ruler of the city Assur”, we compare this title with the Old Akkadian title *ENSI dEn-lil* (*CBS* 13972, col. II, ll. 10 f.; cf. above, p. 25, note 107) and the titles PA.TE.SI <sup>d</sup>*Da-gan* and PA.TE.SI <sup>d</sup>*Da-gan* ù <sup>d</sup>*A-MAL* familiar from the legends of the two royal seals from Ḫana which were published by Nougayrol (*Revue d’Assyriologie* XLI, 1947, pp. 42 ff.) and Stephens (*ibidem*, XXXIV, 1937, pp. 183 ff.), respectively. In other words, we recognize in ll. 1 and 4 (but not, of course, in l. 6) of the Šelûlu seal here under discussion a spelling of the name of the god Aššur repeatedly met with in the brick inscriptions of Ilušumma and Irišum I. In addition to proving the interchangeability and the indiscriminate use of the spellings PA.TE.SI <sup>d</sup>*A-šûr* and PA.TE.SI <sup>d</sup>*A-šûr*<sup>KI</sup>, these inscriptions furnish the significant passages *A-šûr*<sup>KI</sup> ù <sup>d</sup>*Adad* [ù] *be-lûm i-lî* [za-r]a (!)-šû (!) *li-ik* (!)-sû (!)-ma (see ll. 29 ff. of the inscription transliterated by Meissner, *Altorientalische Bibliothek*, I, Leipzig 1926, pp. 16 ff., No. 10; for the restoration of these lines, made possible by the lines 26 f. and x+18 f. of the afore-mentioned Kültepe texts a/k 315 and a/k 353, respectively, see Landstberger and Balkan, *loc. cit.*, p. 257) and *I-ri-šum* . . . . . *a-na* <sup>d</sup>*A-šûr* *be-lî-šû sî-ḫi-ir-ti i-ša-ri ša bîl A-šûr*<sup>KI</sup> . . . . . *i-pu-uš* (see Meissner, *loc. cit.*, p. 16, No. 8e, ll. 1 ff.); as the latter passage must obviously be compared with the passage *I-r[i]-šum* . . . . . *a-na* <sup>d</sup>*A-šûr* *be-lî-šû* . . . . . *sî-ḫi-ir-ti i-ša-ri š[a b]îl* <sup>d</sup>*A-šûr* . . . . . *i-p[u]-uš* (Meissner, *loc. cit.*, pp. 14 ff., No. 8c, ll. 1 ff.), and as *bîl A-šûr*<sup>KI</sup> unquestionably denotes the Aššur temple, it should never have been doubted that *A-šûr*<sup>KI</sup> is a normal Old Assyrian spelling of the name of the national god of the Assyrians. It is instructive to recall in this connection (1) the occurrence in the Middle and Late Assyrian sources of both *mât* <sup>d</sup>*A-šur* (var. *mât* <sup>d</sup>*Aš-šur*) and *mât* <sup>d</sup>*Aš-šur*<sup>KI</sup> in the sense of “Assyria”, (2) the writings *a-lim*<sup>KI</sup> <sup>d</sup>*A-šûr* and *a-lim*<sup>KI</sup> <sup>d</sup>*A-šûr*, attested in Ilušumma’s brick inscriptions from Aššur (see Weidner, *Zeitschrift für Assyriologie* 43, 1936, p. 116, note 1 in fine ad l. 63) and in Kültepe texts (see *EL* 230, 22), respectively, as variants of *a-lim*<sup>KI</sup> *A-šur* (*EL* 102, 15) and *a-lim* *A-šur* (*I* 490, 17; see above, p. 6) and (3) the appearance in a Mari text of the clause *i-nu-ma šarrum a-na* <sup>d</sup>*Ḫa-na-at*<sup>KI</sup> *il-li-ku* (see Dossin, *Syria* XX, 1939, p. 106, whose paraphrastic rendering of *a-na* <sup>d</sup>*Ḫa-na-at*<sup>KI</sup> by “au centre de culte de Ḫanat” is much apropos; see also Dossin, *ibidem*, XXI, 1940, p. 159, note 1, and cf. my remarks in *Revue de l’Histoire des Religions* CX, 1934, p. 48 and *Hebrew Union College Annual* XVIII, 1944, p. 431, note 18).

period between Zariqum and Puzur-Aššur I" is as unacceptable as was his and Landsberger's remark (*loc. cit.*, p. 231) "Šilûlu dürfte ein, wohl nur kurz regierender, in die Königsliste nicht aufgenommener Nachfolger des Puzur-Aššur II. gewesen sein."<sup>11b</sup> Such conjectures do not account for the so-called re-use of the "Šelûlu seal" by a second bearer of the rare name Šelûlu. They are, in fact, unnecessary, because the divergencies sometimes noticeable between the legends of the seal impressions on the case-tablets and the references to the persons said to have sealed them clearly imply that in the period covered by the bulk of the Kültepe texts many an Assyrian of Kaniš possessed and used a seal cylinder which he had inherited from his father or grandfather. Direct evidence to this effect comes now from the tablet *ICK 12*, in which the testator *Ili-bâni mēr Iâa* wills that his son Iâa "shall take my seal". Therefore and in consideration of the well-attested habit, already mentioned above, p. 10, note 44, of giving boys the name of their grandfathers, we are permitted to see in Šelûlu, the son of Ū-ku, a grandson of Šelûlu, the son of Dakiki. Šelûlu, the son of

<sup>11b</sup> The considerations on which Balkan, *op. cit.*, pp. 55 ff. bases his new dating of Šelûlu are for the most part either erroneous or inconclusive. In the first place, it is not correct that "the sign ŠI (=ZÊ) is never used in the Old Assyrian orthography of the Kültepe-period"; see above, p. 25, note 106. Secondly, it cannot well be maintained that the use of seal cylinders reserving the greater part of their surface for one-column inscriptions of six or more lines is not attested for places other than Ešnunna; for at least the first of the royal seals on Ḫana tablets, to which we referred in the preceding footnote, is characterized by the same feature. Thirdly, it is obviously out of place to draw a parallel between an *išši'ak Aššur*, whose father was a city-herald, and an *ensi* of Ešnunna such as Ituria, the builder of a temple for king Šû-Sîn of Ur, whose son was first a "scribe" in the service of king Ibbi-Sîn of Ur and became subsequently king of Ešnunna. Balkan's basic contention that "the seal legends of the rulers of Ešnunna, dated at the same period, show exactly the same wording as our [Šelûlu] seal" (*op. cit.*, p. 55) is likewise without factual foundation. The legend of the Ešnunna seal adduced by him in this connection terminates with the words <sup>4</sup>A-zu-zum <sup>5</sup>PA.TE.SI <sup>6</sup>Aš-nun<sup>KI</sup> <sup>7</sup>ARAD.ZU, whereas in the inscription of Šelûlu's seal the words <sup>3</sup>Ši-lu-lu <sup>4</sup>PA.TE.SI <sup>5</sup>A-šûr<sup>KI</sup> <sup>6</sup>DUMU Da-ki-ki <sup>6</sup>NIMGIR URU A-šûr<sup>KI</sup> are followed not by ARAD.ZU (which would hardly be compatible with the context!) but by a blank space which, as duly noted by Balkan (*op. cit.*, p. 75, note 54), was once inscribed. Balkan assumes that the erased text of this "seventh" line consisted in the word ARAD.ZU, but he fails to look for a motive on the part of Šelûlu which might account for the erasure of just this word. Accordingly, he moves here in a circle. In our opinion, the existence of the blank (or, more exactly, the erased) seventh line on the impressions of the "Šelûlu seal" tends to show that the *išši'akkum* Šelûlu used a seal previously owned by someone else, and that, when appropriating it to himself, he had its original legend replaced by his own inscription. It will be noted that, in addition to accounting for the unusual picture on Šelûlu's seal, this hypothesis is in line with the observation that several Assyrian residents of Kaniš used "altered seals".

Ū-ku, can be shown to have been a contemporary of Pûšu-kên and his sons who, in turn, were active during the reign of Šarrum-kên I of Aššur.<sup>111c</sup> Hence the rule of Šelûlu, the *išši'akkum*, or, as we may also say, the *rubâ'um*<sup>111d</sup>, appears to have coincided with that of one of the early successors of Puzur-Aššur I of Aššur. This suggests that, although he called himself *išši'ak A-šûr*<sup>K1</sup>, he did not rule at Aššur.<sup>111e</sup> For, to say nothing of the fact that the Assyrian king list furnishes for this period an uninterrupted succession of straight line descendants of Puzur-Aššur I, among whom there figures neither a Dakiki nor a Šelûlu, the chronological data available with respect to the period in question make it most hazardous, if not impossible, to insert between Ilušumma and Šarrum-kên I a ruler otherwise unknown as king of Aššur.<sup>111f</sup> To assume that Šelûlu might have been a successful rival of one of the Assyrian kings of this epoch would be equally unwarranted because under Ilušumma and his immediate successors Assyria was strong and its dynasty well established.<sup>111g</sup> In these circumstances, and since Šelûlu cannot have been a hereditary ruler — his father held, as we have seen, the office of a city-herald at Aššur —, it seems logical to conclude that one of Ilušumma's successors entrusted him with the administration of a conquered country over which he was to rule in the name of Aššur, the divine king. That that country is likely to have been Halys Assyria and that, accordingly, Šelûlu can be supposed to

<sup>111c</sup> See below, pp. 72 ff.

<sup>111d</sup> The use of the titles *išši'akkum* and *rubâ'um* with reference to the same persons is well attested; see my remarks in *Zeitschrift für Assyriologie* 36, 1925, pp. 24 f. sub a. Note that Irišum I figures in the text *kt. a/k* 315 as *i-ši-a-ak A-šûr* (see above, p. 26, note 109), whereas Puzur-Aššur II appears in the memorandum *Gelb* No. 58 (see presently, pp. 31 ff.) as *mêr ru-ba-im*.

<sup>111e</sup> As for our interpretation of the title *išši'ak Aššur* as "(priestly) prince of (the god) Aššur", see above, note 111a.

<sup>111f</sup> The pertinent chronological data are the interval of 159 years between the beginning of the reign of Irišum I and the end of Šamši-Adad I (see most recently Landsberger, *Journal of Cuneiform Studies* VIII, 1954, p. 39), the identity, by now fairly well established, of Šamši-Adad's 33rd and Hammu-rapi's 11th year, and the synchronism attested by the chronicle *B. M.* 26472, rev., l. 14. When taking into consideration that the well-established interval from the first year of Sumu-abum's successor Sumu-lâ-ilâ to Hammu-rapi's eleventh year amounts to less than 100 years, one realizes that the 126-year interval from the first year of Irišum I to the first year of Šamši-Adad I is too long rather than too short. The insertion of an additional ruler between Ilušumma and Puzur-Aššur II appears therefore virtually impossible.

<sup>111g</sup> This is evidenced, on the one hand, by Ilušumma's expedition to Dêr and Southern Babylonia, as reported in the afore-mentioned brick inscription published and discussed by Weidner, *loc. cit.*, pp. 114 ff., and, on the other hand, by his and his descendants' considerable building activity at Aššur. Cf. *Orientalistische Literaturzeitung* 29, 1926, col. 759, note 4 and below, p. 66, note 277.

have been *išši'akkum* at Kaniš is suggested by the evidence relating to the later owner of his seal, the afore-mentioned *Šelûlu mēr Ū-ku*. The eight case-tablets over which the latter rolled the seal were unearthed at Kültepe. Therefore and because two of these texts, viz. the promissory note *kt. c/k 843*<sup>111h</sup> and the above-described document *ICK 29*, concern *Amur-Šamaš mēr Zâ-lidi* (who is known to have lived at Kaniš<sup>111i</sup>) the younger *Šelûlu* must have been a resident of Kaniš, even though there is evidence of a journey of his to the Assyrian metropolis on the Tigris. Moreover, the fact that *ICK 29* concerns a transaction by which *Amur-Šamaš mēr Zâ-lidi* acquired two Assyrian slaves indicates that the younger *Šelûlu*'s associations included wealthy citizens of Kaniš. Much the same information comes from the afore-mentioned tablet *KTS 31a*. For this letter shows that, when at Aššur, *Šelûlu mēr Ū-ku* had contacts with as high-ranking a person as the *waklum* and was asked by him to deliver at Kaniš his compliments (symbolized by the small gift of five minas of lead) to that *Šû-Anum mēr Enna-Sîn* in whom we recognized a brother of *Šû-Bêlum*, the son and grandson of a *waklum*.<sup>111j</sup> He must therefore be regarded as a member of the ruling circles of Aššur and Kaniš, which suggests that he is likely to have been at Aššur on an official mission. The fact, to be gathered from the *waklum*'s statement in *KTS 31a*, 3b ff. that he travelled from Aššur to Kaniš in the company of a certain *Amur-Šamaš mēr E-nu-a* . . . . points in the same direction, for, as was demonstrated above, p. 20, note 85, the Assyrian authorities adhered to the principle of charging two men with such missions.<sup>111k</sup>

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As was intimated before, when analyzing the evidence bearing upon the *rubâ'um* residing at Kaniš attention must be paid to the somewhat damaged record *Gelb No. 58*. This important source must

<sup>111h</sup> The photographs published by Balkan, *op. cit.*, fig. 8 and 10 make it possible to state that *kt. c/k 843* is a promissory note made out by *Amur-Šamaš mēr Zâ-lidi* and witnessed by *Šelûlu*. But as they fail to show all parts of the document and, consequently, do not permit to identify all persons named therein, they cannot serve as a substitute for an autographed copy or a transliteration.

<sup>111i</sup> See below, p. 77.

<sup>111j</sup> See above, p. 26, note 109 in fine.

<sup>111k</sup> Therefore, and since no *Šelûlu* is found among the various contemporary caravan-leaders and minor employees known to have continually journeyed from Aššur to Cappadocia and back, we cannot, of course, agree with Balkan's opinion (*op. cit.*, p. 55) that the younger *Šelûlu* "was a rather obscure personality who travelled between Kaniš and Assur".



be classified as a list of goods sent from Aššur to Kaniš because it begins with a typical [x *bilâtum anṣu*]kum ú *it-ra-sú*<sup>112</sup> <sup>2</sup>[y *manâ'û ann*]ak<sup>ak</sup> *qâ-tim* <sup>3</sup>[. . . . . LĪB.]BA 2 *šubâtû* and terminates with an equally typical [*âp-qî*]-*id*.<sup>113</sup> Its well-preserved part lists, inter alia, <sup>4</sup>"<sup>228</sup> *riqlû*, (weighing) 7 minas <sup>23</sup>(and made of) lead<sup>114</sup>, of Elâ-(i)li, the

<sup>112</sup> Our restoration of l. 1 is based upon *KTHahn* 18, 3 (4 *bilâtum annakam ú it-ra-sú*) and *BIN* IV 13, 3 f. (1 *billam annakam 'û i-ti-ra-sú*). The term *itrátum* denoted the "extra" amount of lead by which a *šuglum* (i. e. a load of "sealed" lead weighing roughly one talent and prepared for shipment from Aššur to Cappadocia) exceeded the weight of one talent. Another additional amount of lead, as a rule fixed at 10 minas per donkey or 5 minas per load, the so-called "lead of the hand" (*annak qâtim*; see *EL* I, p. 107, note a and cf. l. 2 of the text here under discussion), was given to the caravan leaders and their drivers before their departure from Aššur in order to enable them to meet the daily expenses of the journey to Anatolia.

<sup>113</sup> Whether we restore the last line to [*apq*]-*id* or rather to [*nipq*]-*id* is, of course, irrelevant. — I take this opportunity to call attention to the fact that l. 36 ([*ša sà*]-*e-tim* 2 *ma-at-li-iš-ḥu*) acquaints us with an interesting variant of the non-Akkadian term known as *mattiššum* from *TC* III 113, 19 and *CCT* 39<sup>b</sup> (see ll. 6 ff.: *ši-im emâri* <sup>11A</sup> <sup>7</sup>*zu-ur-zi* <sup>8</sup>*û-kà-pi* *ma-at-[li]-iḥ-ši* <sup>9</sup>*wa-si-sú-nu* <sup>10</sup>*mî-ma šu-um-šu* <sup>11</sup>*û-lá tá-ḥi* "(As for) <sup>6</sup>the price of the donkeys, <sup>7</sup>the pouches, <sup>8</sup>the saddles, the *mattiššû*, <sup>9</sup>their export-toll (and) <sup>10</sup>whatsoever, <sup>11</sup>he is not concerned"), as well as from an unpublished text from which Bilgiç, *loc. cit.*, p. 34, note 222 quoted the words 2 *manâ'ê* 15 *šiqlû eri'am ši-im* 9 *ma-at-li-iḥ-ši*. It is uncertain whether this term denotes "straps (?) of leather" (?), but its Hurrian character can hardly be questioned; cf., e. g., *ḥubrušhi* (Friedrich, *Hethitisches Wörterbuch*, Heidelberg 1952, p. 321). [After the preceding was written, E. Bilgiç kindly sent me his afore-mentioned monograph "Kappadokya metinlerinde geçen yerli appellatifler ve bunların eski Anadolu dilleri içerisinde yeri" (Ankara 1953) in which he quotes on p. 69 a few lines from an unpublished text in the Ankara Museum. In view of the above-cited lines of *CCT* 39<sup>b</sup>, it would appear that this unpublished passage includes the words 4 *û-kà-pu* [*ma-at-li-iš-ḥu*], thus making it sure that *mattiššum* and *mattišsum* are variants of one and the same word. Bilgiç's rendering of *ukâpum*, in which I see the Akkadian prototype of Aramaic 'ukâfâ (> Arabic 'ikâf; cf. Fraenkel, *Die aramäischen Fremdwörter im Arabischen*, Leiden 1886, pp. 105 f.; Brockelmann, *Zeitschrift für Semitistik* VIII, 1932, p. 100), is hardly compatible with passages such as *HSS* XIV, No. 540, 1 ff., according to which an *ukâpum* was fabricated from sheep-skins.]

<sup>114</sup> As briefly noted by Gelb, *Inscriptions from Alishar*, pp. 63 f., the term *riq/k/q-lu* recurs in connection with *suluppû* "dates" in *TC* II 7, i. e. in a letter which deals with goods to be shipped from Aššur to Kaniš (see ll. 30 ff.: *ri-iq-li* <sup>11</sup>*û sù-lu-pi išti Šu-Ištar* <sup>12</sup>*û-šê-ba-lá-kum*). Hence it is perhaps not too daring to combine it with <sup>13</sup>*رَقْلَة* "a tall palm-tree" (Lane I, Part 3, p. 1138). Since, on the other hand, the eight *riqlû* mentioned in our text, *Gelb* No. 58, are said to have consisted of lead (*annakum*), it would appear that these terms were used as designations of pieces of furniture or ornaments representing palm trees and their fruits; cf. the occurrence in a letter of Aššur-uballit of the expression *abanû-ḥi-na ša abanuqnê šadê*, on which I commented on p. 321 of the *Ignace Goldziher Memorial Volume* [Part I, Budapest 1948], and note that, as early as 1929, de Genouillac, *Syria* X, pp. 1 ff. published an "idole en plomb d'une triade cappadocienne", the provenience of which from Kültepe

son of Sûa, the *laputtâ'um*<sup>115</sup>; <sup>24</sup>5 cloths of Puzur-Aššur, the son of the *rubâ'um*, <sup>25</sup>5 *šitrû* of clothing<sup>116</sup>, <sup>26</sup>3 belts, (weighing) 2/3 minas (and

has now been confirmed by the recent finds of other figurines made of lead. — The idiom 8 *ri-iq-lu* 7 *manâ'u annukum* with its double apposition so succinctly determining the 8 *riqlû* with respect to both weight and material has analogues in expressions such as 1 *ri-ik-sûm* 1 *manâ'um* 5 *šiqlû kaspum* (EL 235, 3; cf. TC III 209, 8 f.; 13 f.; etc.) and 1 *né-pi-sûm* 6 *manâ'u* 5 *šiqlû kaspum* (EL 235, 9 f.; cf. *ibidem* 18 f.; 31 f.; TC III 209, 1; ICK 120, 1 f.; etc.).

<sup>115</sup> Further references to a NU.BANDA are found in VAT 13471 (see ll. 18 ff.: *um-ma Hu-bi-tum* NU.BANDA <sup>19</sup>*û kumrum* *ša* <sup>d</sup>*Adad-ma* <sup>20</sup>*û hurâšam* *ša* *Ah-ša-lim* <sup>21</sup>*tâm-kà-ri-ni ni-ša-ba-a[ti]*), EL 127, 16 f. (*a-na I-ku-nim* NU.BANDA), TC III 259 B (see the legend of the seal impression c: *A-na-ilî mēr Šu-A-nim* NU.BANDA), BIN IV 145, 24 (1 *šiqlum kaspum* *A-šûr-SA.TU-e* NU.BANDA), TC III 190, 20 f. (1 1/3 *manâ'u Î-lî-a-lûm mēr Î-lî-tû-ra-am* NU.BANDA; cf. *maḥar Ili-tû-ra-am* NU.BANDA in l. 29 of the document communicated by Landsberger, *Türk Tarih, Arkeologya ve Etnografya Dergisi* IV, pp. 20 f.). Whereas there is no evidence to the effect that any of the NU.BANDA-officers figuring in these sources resided in Kaniš, it is certain that Aššur-šadu'i, Ikûnum and Ili-turram, as well as *Ela-(i)lî mēr Sûa* NU.BANDA and *Hubitum* NU.BANDA, lived at Aššur. Landsberger, *loc. cit.*, p. 22, who based his pertinent remarks upon the observation that, in the Sumerian period, "der nubanda der Stellvertreter des ugula war", was, therefore, obviously right in defining the "*laputtû*-Amt als das nächste nach dem des *uaklu*, des Vorstandes der Stadtbehörde" of Aššur. His conclusion is, in fact, confirmed by the above-mentioned unpublished letter VAT 9285 which, in acquainting us with the name of a sixth holder of this office, makes it virtually certain that the *laputtâ'um* belonged to the staff of the *waklum*. VAT 9285 runs as follows: <sup>1</sup>*um-ma wa-ak-lum-ma* <sup>2</sup>*a-na Bu-šû-ta-a* <sup>3</sup>*û Pu-šû-ki-en* <sup>4</sup>*qî-bi-ma* <sup>5</sup>*a-na Bu-šû-ta-a* <sup>6</sup>*qî-bi-ma* 5 *manâ'ê annak* <sup>7</sup>*ku-nu-ki-a* *Šu-Nu-nu* <sup>8</sup>*ub-lá-kum* <sup>9</sup>*ši-im* <sup>10</sup>*anniki-i* <sup>11</sup>*a kaspam* <sup>12</sup>*šé-bi-lam* <sup>13</sup>*[lá] ta-ba-ta-gám* <sup>14</sup>*[maḥ]ar* *A-šûr* <sup>15</sup>*i-lî-a* <sup>16</sup>*a-kà-ra-ba-ku-nu-ti* <sup>17</sup>*maḥar* *A-šûr* <sup>18</sup>*šam-ši-i* NU.BANDA <sup>19</sup>*maḥar* *A-šûr-i-mi-ti mēr* *A-mur-ilî* <sup>20</sup>*maḥar* *A-šûr-en-nam* <sup>21</sup>*mēr* *En-um-A-šûr* <sup>22</sup>*annakam* *a-na* *Šu-Nu-nu* <sup>23</sup>*20áp-qî-id*.

<sup>116</sup> In view of BIN VI 122, 13 f. (*lu šî-it-ra-a[m]* <sup>14</sup>*lu pár-šî-gám lu . . . [ . . . ]*) it can hardly be doubted that Gelb was right in defining *šitrûm* as the Old Assyrian equivalent of Hebrew קֹתֶר "cover" or perhaps more accurately קֹתֶר פְּנִים "veil". Once this is admitted, the term *šî-it-ru* *ša lu-bu-šî*, which recurs in TC 19, 10 f., can be assumed to denote bales of more or less transparent material destined to be worn as upper garments over ordinary clothing. From passages such as BIN VI 64, 7 (*û šî-it-ru-um* *ša A-ki-dî-i*) it is learnt that such cloth came from Akkad, which furnished also the *šubâtû* *ša A-kî-dî-e damqûtum* *waṭrûtum* *ša lu-bu-uš* *ša ru-tim* "fine cloth of Akkadian make of extraordinary quality for clothing of royalty" (see ll. 4 f. of the famous "Cappadocian Tablet of the British Museum", first published and discussed by Pinches in the *Proceedings of the Society of Biblical Archaeology* IV, 1882, pl. I and pp. 11 ff.). From TC 19, 12 (2 *šî-it-ri-e* *ša A-bar-ni-e*) and BIN VI 184, x+9 f. (1 *šî-it-ra-am* *ša Za-al-pá*; cf. also EL 296, 6: 6 *šî-it-ri* *ša Za(!)-al-pá*) it follows that the Abarnians and the people of Zalpa manufactured similar kinds of cloth. But since the above-discussed contents of ll. 1-3 make it certain that Gelb No. 58 records a shipment from Aššur to Kaniš, and since, on the other hand, VAT 9249, 4 ff. (see KTHahn, p. 2 and *Symbolae Hrozný*, IV, p. 421, note 311 in fine) deal with the import of *šubâtû* *ša Akkidi'ê* from Akkad to Aššur by Akkadians, it is

made of) copper<sup>117</sup>, <sup>27</sup>for the *rubâ'um*; 13 shekels of copper <sup>28</sup>for Abia, the sealer". Since, as was just demonstrated, these seven lines occur in an enumeration of merchandise and valuable articles exported from Aššur, it is obvious that Gelb's statement "The Puzur-Aššur mentioned here as the son of the prince is evidently Puzur-Aššur II, the son of Sargon I of Assyria" can and must be endorsed. But if Gelb<sup>118</sup>, followed by Klíma and Matouš<sup>119</sup>, went on to say "The latter is, then, the *rubâum* of line 27", we must disagree because it results from scores of similar lists that a personal name or title preceded by *ana* denotes the consignee of the goods, whereas the name of the consignor is preceded by *ša*.<sup>120</sup> In other words, the striking difference between the genitive *ša Puzur-Aššur mēr rubâ'im* in l. 24 and the dative *ana rubâ'im* in l. 27 makes it clear that the princely consignee of the precious articles listed in ll. 22-26 resided in Cappadocia or, more exactly, in Kaniš.<sup>121</sup>

not too daring to assume that the *šitrû ša lubûšî* which figure in the passage here under discussion had originally come from Akkad.

<sup>117</sup> That the term *iš-ra-tum* denotes "belts" and belongs to *mêširu* (and hence also to Syriac *'ešârâ* and, probably, Hebrew *'ezôr*; cf. Zimmern *apud* Gesenius-Buhl, *Hebräisches und Aramäisches Handwörterbuch*<sup>16</sup>, Leipzig 1910, p. 21) is suggested by VAT 9237, 13 f.: *iš-ra-am a qâ-ab-li-a* <sup>14</sup>*ša-ma(-ma)* "buy an *išrum* for my waist". TC 19, 19 f., where our term figures in close association with a *pašrum*, point in the same direction. The same is true of ICK 88, 16 (*1 subât-iš-ra-am ki-sâ-am*) in as much as we learn here that the *išrum* was an article of clothing and could be described as a "bag" or "purse". The fact that, to judge by the passage here under examination, so much copper could be used in making *išrâtum* that one spoke sometimes of *išrâtum* of copper agrees well with a statement found in BIN IV 180, ll. 6 ff. according to which 20 ½ minas and 2 shekels of copper were weighed out to the Talḫatians "for 16 *iš-ra-tim*". To be sure, this does not prove that the whole amount of more than 20 minas of copper had been used, or was destined to be used, in manufacturing those sixteen belts; a considerable part of it may have served for payment of labour etc. But it is significant that, according TC III 210, 8 f. (*iš-ra-am Tal-ḫa-ti-tâm a-na Šu-Hu-bur*), *išrâtum* were among the products of Talḫatian craftsmanship; for the people of Talḫat-Δολίχη excelled also in the making of "ephods" (*e-pâ-da-tum*) which, as is learnt from Judges 8.22 ff., involved the use of metal. Since TC III 210 deals with a shipment of silver and valuable articles to Aššur, and since Šû-Hubur is known to have been a wealthy and most influential resident of that city, it also results from the passage just cited that, like the *epâdatum* Talḫati'âtum mentioned in CCT II 36<sup>a</sup>, 15 f. and EL 131, 23, precious *išrâtum* found their way to the metropolis on the Tigris from which they could, of course, be re-exported to Anatolia.

<sup>118</sup> *Op. cit.*, p. 64.

<sup>119</sup> *Compte rendu de la seconde rencontre assyriologique internationale*, Paris 1951, p. 51.

<sup>120</sup> It is appropriate to recall in this connection the remarks of Thureau-Dangin *apud* Contenau, *Revue d'Assyriologie* 29, 1932, p. 30. He has shown that on the legends found on precious gifts the name of the donor is preceded by *ša* and the name of the recipient of the present by *ana*.

<sup>121</sup> Thus because Gelb No. 58 was unearthed at Kültepe. As will be confirmed

In these circumstances, and since the presence at Kaniš of a *rubâ'um* is attested by the letter *CCT* III 44<sup>b</sup> (see above, pp. 21 ff.), it is hardly too daring to see in the memorandum *Gelb* No. 58 a piece of evidence to the effect that a member of the court at Aššur, namely the future king Puzur-Aššur II, sent gifts to the ruler of Halys Assyria.<sup>122</sup>

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In view of the information just gathered from the memorandum *Gelb* No. 58, one might be inclined to regard Halys Assyria as a sovereign state headed by a *rubâ'um* as independent as the *išši'ak Aššur* who resided at Aššur. But such an inference would be contrary to the various and intricate implications of the well-known fact that the principal quarter of the city of Kaniš (as well as its govern-

presently (see note 122), this fact does not imply that the merchandise and valuable articles enumerated in this "bill of consignment" came from Kaniš.

<sup>122</sup> That the passage here under discussion records gifts is also the view of Bilgiç, *Afo* XV, 1945-51, p. 24 with note 172. However, while not expressing any opinion as to the identity of the donor, he speaks of "Geschenke an [sic] den assyrischen Kronprinzen", although, as we have seen, *ša Puzur-Aššur* means neither "unto P." nor "for P.". Bilgiç's remark seems to be due to his assumption that the first twenty-eight lines of *Gelb* No. 58 deal with the voyage from Kaniš to Aššur of a man who, travelling with what Bilgiç calls "wenig Gepäck" (i. e., probably, without transporting a heavy load of merchandise), paid only twenty shekels of copper for the use of a ferry-boat, whereas, according to Bilgiç, ll. 29 ff. concern a journey from Aššur to Kaniš, in the course of which the same man, now travelling with a caravan, spent no less than three hundred shekels of copper for the use of a ferry-boat "das in Richtung hierher (den Fluss) überquert hat." I consider this interpretation of *Gelb* No. 58 as untenable as my own first attempt (in *JAOS* 57, 1937, pp. 435 f.) to understand this difficult document. As mentioned above (see also *Orientalia* XXI, 1952, p. 423, note 3, where I spoke incorrectly of "two consignments destined for Cappadocia"), lines 1-3 make it perfectly clear that our traveller's so-called luggage included at least one talent of *annakum*; since, according to the unanimous testimony of hundreds of Kültepe texts, even smaller quantities of lead were never shipped from Cappadocia to Aššur, the premiss of Bilgiç's reasoning turns out to be erroneous. In addition, it must be noted that Bilgiç's interpretation of the clause *5 manâ'û eri'um ig-ri i-li-pi-im ša té-bi-ra-ni* (ll. 29 f.) is not cogent, the translation "5 minas of copper, the hire of the boat which will cross (the river) hitherward" being equally possible because the Old Assyrian scribes were not wont to indicate the gemination of the second radical of verbal forms such as *ettiqu* or *tebbiranni*. The interpretation of *té-bi-ra-ni* as future is, in fact, required in view of texts such as *TC* 72 (ll. 14<sup>b</sup>-16), *TC* 80 (ll. 2<sup>b</sup>-4), *KTHahn* 18 (ll. 13-15 and 19 f.), *CCT* II 4<sup>b</sup>+5<sup>a</sup> (ll. 6<sup>b</sup>-7<sup>a</sup> and 10), *TC* III 139 (ll. x+9 f.), *CCT* IV 2<sup>b</sup> (ll. 7 f. and 12-14<sup>a</sup>), *CCT* IV 7<sup>a</sup> (ll. 20-23). For in agreement with other records relating to the transport of merchandise or other valuables these memoranda and letters show that it was



ing body which, inter alia, functioned as a law-court<sup>123</sup>) figures as *kârûm Kaniš* in official letters<sup>124</sup>, in proceedings in court<sup>125</sup>, in legal decisions<sup>126</sup>, in contracts<sup>127</sup> and in other documents.<sup>128</sup> On the

customary to state in the bills of consignment which amounts in cash the caravan-leader was given upon his departure in order to enable him to meet the daily expenses of his journey, to pay his personnel, etc. etc.; conversely, statements as to travelling expenses already defrayed by the caravan-leader cannot be expected and are actually not found in this class of documents. Hence it is manifest that Bilgiç erred in taking it for granted that *Gelb* No. 58 deals with the details of a journey to Assyria and back and that it was written after the traveller's return to his home in Cappadocia. (Any attempt to support Bilgiç's view with the argument that *Gelb* No. 58 was found at Kaniš proves futile because it results from the comparison of, e. g., *TuM* I 2° [see *EL* II, p. 177 f.] with *EL* 110 that it was usual to send to Kaniš copies of the bills of consignment of goods expedited at Aššur and destined for Kaniš; we also learn from these texts that the caravan-leaders received — in the form of letters addressed to them — written instructions repeating the contents of those bills of consignment.) The afore-mentioned fact, finally, that the amounts of  $\frac{1}{3}$  of a mina of copper and 5 minas of copper, respectively, which the caravan-leader received with the instruction to use them for "the hire of the boat" (l. 18) and for "the hire of the boat which will cross hitherward" (ll. 29 f.), seem to be disproportionate does not, of course, militate against our interpretation of *Gelb* No. 58. For, to say nothing of the possibility that, when returning to Aššur, our voyager expected to "cross" at another place or to cover a longer distance by boat than when being outbound, it may be surmised that the fare varied according to the number of persons crossing on the same boat or depended upon still other circumstances unknown to us.

<sup>123</sup> Evidence that the *kârûm* of a town served as law-court comes also from the Old Babylonian sources; cf. inter alia the observations of L. W. King, *The Letters and Inscriptions of Hammurabi*, III, London 1900, p. 122, note 2. In the law-suit recorded in *VAT* 7716 (*VS* XIII, No. 89; cf. Ungnad's translation in Koschaker und Ungnad, *Hammurabi's Gesetz*, VI, Leipzig 1923, p. 150) it was the *kârûm* of the town of Raḫabum (*kâr âlim*<sup>KI</sup> *Ra-ḫa-bu-um*) who sat as court and rendered a decision; cf. Walther, *Das Altbabylonische Gerichtswesen*, Leipzig 1917, p. 70. As for a law-suit in which king Rīm-Sin sent the parties to the Šamaš-temple of Larsa and *i-na bīt dŠamaš ka-ru-um di-nam ú-ša-ḫi-sú-nu-ti* (*AO* 6370 [*TCL* X, No. 34]), see now Leemans, *The Old-Babylonian Merchant*, Leiden 1950, pp. 69 ff. and note the affinity of the passage with *EL* 247, 20 (*kā-ru-um lu-ša-ḫi-iz-ni-a-ti*).

<sup>124</sup> Cf., inter alia, the letters mentioned above, p. 20, note 85.

<sup>125</sup> See, e. g., *EL* 245 ff.

<sup>126</sup> See, for instance, *EL* 274; 276; 280.

<sup>127</sup> Cf. *EL* 225, 14<sup>b</sup>-22.

<sup>128</sup> To believe Landsberger, *ZA* 35, 1924, p. 223, it is most significant that, in distinction from the Neo-Assyrian sources transmitting to us numerous place names of the type *âlKâr-âX* or *âlKâr-mY*, the Old Assyrian documents employ always the expressions *kârûm Buruṣhaddum*, *kârûm Kaniš* etc. "Danach", he says, "ist *kârûm* nicht eine Behörde von Kaniš, sondern Kaniš selbst ist ein *kârûm*". I am unable to concur with this opinion which served him as a point of departure for far-reaching conclusions. For in ll. 40 ff. of the letter *CCT* III 4 a certain Aššur-taklâku is expressly told that at Buruṣhaddum he should not stay (lit., "sit") in the *kârûm*; this passage



surface the *kârum Kaniš* presents itself as a branch of a corporation of bankers and travelling merchants founded at the city of Aššur in order to exploit the potentialities of a highly organized commercial penetration of Cappadocia and the neighboring regions. For this reason, and on the erroneous assumption that the Assyrian importers were not subject to taxes and duties, it has been said that the members of the *kârum Kaniš* and, for that matter, of the other *kârû* of Anatolia "formed a close-knit independent organization within a foreign country where the merchants had to rely upon themselves and their ability to cooperate with a variety of city rulers and the ever changing political situation".<sup>129</sup> But there is evidence that the *kârum* or, more exactly, the *bît kârim*, i. e. the central office found in every *kârum*<sup>130</sup>, served not only as a chamber of commerce and a clearing

(a transliteration and translation of which is found in *EL* I, p. 119, note c in fine) points therefore to a distinction between the city of Burušhaddum in general and its *kârum*. Nor can I accept Landsberger's premiss that the grammatical difference between *kâr Sippar* and *kârum Sippar* requires a different interpretation of the two phrases. A comparison of the sentences *a-lam<sub>4</sub> A-šûr kâ-âš-du* (*TC* III 58, 16; cf. above, p. 7, note 30) and *iš-tû a-al Si-si-im ú-ta-er* (*EL* 247, 5 f.; cf. above, p. 21 with note 89) or, to quote an Old Babylonian letter, *a-na li-<bi> a-al Sipparim*<sup>K1</sup> *šu-ri-a-am* (*VAT* 576, 12 ff.; cf. Ungnad apud P. Kraus, *MVAeG* 36, 1, 1932, p. 71, note e) shows that *âlum X* means exactly the same as *âl X*. Hence and because, as admitted by Landsberger, *âlum* and *kârum* belong in one and the same category of designations of communities and their governing bodies, I see no possibility of postulating a difference between *kâr Sippar* and *kârum Sippar*.

To judge by a recent remark in *Symbolae Hrozný*, III, 1950, p. 329 in which he describes the city of Hattuš as "Sitz eines *kârum*, d. h. einer organisierten assyrischen Handelskolonie", Landsberger does no longer rigidly adhere to the views he expressed thirty years ago. But since his definition of the *kârum* as a "colony of traders" (cf. also *loc. cit.*, p. 338) implies continued adherence to his former view that *kârum* "port" came to mean "Faktorei", "Kolonie", it seemed necessary to mention the reasons why we reject the concept on which this theory is based. That this is not as superfluous as one might assume can be seen from the statements of Salonen, *Nautica Babylonica*, Helsinki 1942, pp. 35 ff. Quoting Landsberger, he asserts that *kârum* signifies "«Hafen, Hafenanlage, Kai» dann «Markt(-wert), Richt, Neugründung»" and goes on to speak of the "Namen der zahlreichen assyrischen Neugründungen in eroberten Gebieten: *kâr-NN* «Kolonie des NN»". It obviously did not occur to Salonen how unrealistic it is to assume that the Assyrians founded many major towns in Asia Minor but failed to give an Assyrian name to at least the one or the other of those "Neugründungen". Nor did he take pains to ascertain how many of the places figuring as *Kâr-NN* in the Neo-Assyrian royal inscriptions were merely renamed but not founded by the Assyrian conquerors.

<sup>129</sup> See Oppenheim, *JAOS* 74, 1954, p. 13.

<sup>130</sup> Besides referring very frequently to the *bît kârim* at Kaniš, the Kültepe texts mention a *bît kârim* at Burušhaddum (see *CCT* 19<sup>b</sup>, 3 f.; *CCT* 22<sup>a</sup>, 3 ff.; *TC* 37, 11 f.; *TuM* I 27<sup>b</sup>, 7 f.; etc.), at Durḫumid (*CCT* II 30, 19; *Oxford* 685, 14), at Waḫšušana (*BIN* IV 218, 21 f.), at Zalpa (see *BIN* VI 167, 8 f.: 10 *šubâtî i Za-al-pá a-na* [*bît*])

house of the merchants but also as an agency of the *ékallum*. Most instructive among the pertinent tablets is the memorandum *BIN IV 156* which relates in its first lines<sup>131</sup> that in payment of some pieces of cloth purchased by the palace the merchant concerned would receive in the *bît kârim* copper in the amount of 20 minas per piece.<sup>132</sup> Furthermore, an examination of the numerous texts which mention either a "tithe" designated as *išrâtum* or a "5% duty" called *mêtûm ḥamšat*<sup>133</sup> and, like other taxes or fees<sup>134</sup>, payable in the *bît kârim*<sup>135</sup> shows not only that heavy tolls were levied on goods arriving at Kaniš but also that the *kârum* and the palace were administrative institutions serving a common end; for the fact that the *išrâtum* were sometimes paid to the *ékallum*<sup>136</sup> and at other times to the *bît kârim*<sup>137</sup> indicates

<sup>9</sup>*kâ-ri-im i-pu-[ul]*). As for the significant fact that the sources employ the expressions "mina of the *kârum*" and "mina of the *bît kârim*" in one and the same sense, see *Symbolae Hrozný*, IV, 1950, p. 418, note 289.

<sup>131</sup> The text begins as follows: <sup>1</sup>*i-na 70 ṣubâtî*<sup>H.I.A</sup> <sup>2</sup>*ša i-na ékallim*<sup>lim</sup> <sup>3</sup>*il<sub>5</sub>-qí-ú* <sup>4</sup>*ša 7 1/2 ṣubâtî*<sup>H.I.A</sup> <sup>5</sup>*20 manâ'ê TA eri'am* <sup>6</sup>*bît kâ-ri-im* <sup>7</sup>*a-lá-qí*.

<sup>132</sup> Another transaction of exactly the same character is mentioned in the first lines of the letter *KTS 18*; in this instance the palace bought (*ana šimim ilqî*) 20 pieces of cloth and the importers of the cloths expected to receive in the *bît kârim* 400 minas of copper. Cf. further *CCT II 24*, ll. 21–29, where the last numeral in l. 28 must be emended to *10 LÁ 1/4*. Information similar to the evidence just adduced but pertaining to the *ékallum* and *bît kârim* of *Burušhaddum* is contained in the following lines of the reverse of the badly damaged letter *VAT 9276*: *53 ṣubâtî*<sup>H.I.A</sup> <sup>9</sup>*[ša i]-na Bu-ru-uš-ḥa-dim a-na ékallim*<sup>lim</sup> <sup>10</sup>*[. . . . -d]Adad û A-na-lí i-dí-nu-ni* <sup>11</sup>*[šá]-im-šu-nu lu bît kâ-ri-im il<sub>5</sub>-qí-ú . . . . .*

<sup>133</sup> See *TuM* 2<sup>b</sup>, 30 ff. (*i-na mî-tum 5 lu a-ta* <sup>31</sup>*a-dí lu Wardum i-dí i bît kâ-ri-im* <sup>32</sup>*šu-? lu-up-ta*) and cf. *BIN IV 72*, 3 ff. and the passages quoted and translated in *Orientalia XV*, 1946, p. 414, note 4.

<sup>134</sup> See below, pp. 67 ff.

<sup>135</sup> It is interesting to note in this connection that, in seeming agreement with the Old Assyrian source material, *VAT 11*, a Neo-Babylonian document quoted by Ungnad, *Glossar*, p. 74, characterizes the *kârum*-building (*bît ka-a-ri*) as the place where tolls were collected. But whereas this Babylonian source designates as *bît kâri* a building which in conformity with the original signification of the word *kârum* "wall", "mole" (>"port", "port-quarter", "market") was actually located on a river or canal, the Old Assyrian sources relating to the *kârû* of Cappadocia and the adjoining regions employ the terms *kârum* and *bît kârim* no longer in accordance with their original meaning. This reflects the fact that, in countries not as abounding in water-ways as Babylonia, ware-houses as well as administrative buildings and the like corresponding to those of a Babylonian *kârum* had to be erected in places not connected with river-traffic.

<sup>136</sup> See, e. g., *BIN IV 61* and cf. the annotated transliteration and translation of the first half of this typical letter which I published in *EL I*, p. 219 (pp. 220 f.), note a.

<sup>137</sup> Thus according to the unpublished letter *VAT 9292* which begins as follows: <sup>1</sup>*a-na Pu-šu-ki-in qí-bi<sub>4</sub>-ma* <sup>2</sup>*um-ma A-šur-i-mî-tí* <sup>3</sup>*û Puzur-A-šur-ma* <sup>4</sup>*12 manâ'ê* <sup>5</sup>*ḥu-sà-ra-am* <sup>6</sup>*ku-nu-ki-ni Im-gu<sub>5</sub>-a na-áš-a-kum* <sup>6</sup>*manâ'ê 11 šiq<sub>1</sub>lê kaspam* <sup>7</sup>*it-ba-al*

that it was of no consequence which of the two administrations received this tax. Such cooperation of "palace" or "government" and *kârum* is not as surprising as it might seem. We learned already from the letter discussed above, pp. 17 ff. that, when informed of the readiness of the prince of Wašḫania to swear an oath of allegiance, the *kârum* *Waḫšušana* not only made a report to its "superior", the *kârum* *Kaniš*, but even was in a position to tell that prince at once which action the government (*mâtum*) in Kaniš would take in this political matter. When turning to the sources relating to the later periods of Assyrian history, we see, on the other hand, that a somewhat damaged letter addressed to king Aššur-bân-apli<sup>138</sup> deals with a certain Nabû-kudurri-ušur, characterized by the letter as viceroy of the "Sealand"<sup>139</sup>, as well as with a *râb ka-a-ri šá Mât-Tam-tim* (rev., l. 20); it would seem that this *kâru*-official, who, no doubt, represented another governmental department, was expected to collaborate with Nabû-kudurri-ušur. Judging from the fact that a letter sent to king Esarhaddon<sup>140</sup> mentions both a *bêl pâḫate* of <sup>âl</sup>*Isana* and a <sup>amêl</sup>*râb kâri šarri mDajjân-dAdad âlIsana*<sup>141</sup>, it seems even probable that both the viceroy Nabû-kudurri-ušur and the *râb kâri ša mât Tâmtim* were stationed in one and the same city; this conclusion is all the more justified since, according to ll. 19 ff. of the same letter, *K. 122*, colleagues of the *râb kâri*, *Dajjân-Adad*, performed their duties in the district capitals of <sup>mât</sup>*Hal-zi-Ad-bar*, <sup>âl</sup>*Arzuḫina*, <sup>âl</sup>*Arba-ilu*, <sup>âl</sup>*Guzana*, <sup>âl</sup>*UD-nu-na* and <sup>âl</sup>*Rimusu*, each of which is known to have been the residence of a provincial governor.<sup>142</sup> A well-known stone inscription of

*a-na iš-ra-tim* <sup>8</sup>*ša lîl kâ-ri-im* <sup>9</sup>*um-ma a-ta-ma* <sup>10</sup>*ki-ma i-na-dî-nu kašpam* <sup>11</sup>*iš-ra-tim* <sup>12</sup>*dî-na-šu-nu-tî* <sup>13</sup>*šu-ma lá i-ma-gus-ru-kà* . . . . . See also *BIN VI* 15, 4 ff.

<sup>138</sup> 82-5-22, 131, published by Harper, *Assyrian and Babylonian Letters*, XI, Chicago 1911, No. 1106 and transliterated and translated by Waterman, *Royal Correspondence of the Assyrian Empire*, II, Ann Arbor 1930, pp. 268 ff.

<sup>139</sup> See rev., l. 13 (*ultu Mât-Tam-tim ana mNabû-kudurri-ušur <aḫi>-ia šarru iddinu*) and cf. Schawe in *Reallexikon der Assyriologie*, I, pp. 477 f.

<sup>140</sup> *K. 122*, published by Harper, *op. cit.*, I, Chicago 1892, No. 43; latest transliterations and translations by Waterman, *op. cit.*, I, pp. 30 ff. and by Pfeiffer, *State Letters of Assyria*, New Haven 1935, pp. 240 f.

<sup>141</sup> Thus with Waterman in view of the obvious untenability of the reading *amêl-râb kar-man*, first suggested by van Gelderen, *Beiträge zur Assyriologie* IV, 1902, pp. 513 ff. and endorsed by Forrer, *Die Provinzeinteilung des assyrischen Reiches*, Leipzig 1920, p. 104, who even accepted van Gelderen's rendering "Ruinenmeister". From the occurrence in l. 23 of *PAP an-nu-te* it follows, on the other hand, that van Gelderen (and Pfeiffer, who, however, ventured no translation of *Dajjân-Adad's* title) were right in assuming that, after mentioning *mDajjân-dAdad âlI-sa-na*, the text goes on to enumerate colleagues of his who resided in other cities.

<sup>142</sup> For references see Forrer, *op. cit.*, pp. 119, 94, 116, 109 and 115, respectively,

Esarhaddon, *Assur* 3916<sup>143</sup>, points likewise in this direction because *amêl-rab-kârê*<sup>MEŠ</sup>, i. e. "revenue-officers" or "treasury-officials"<sup>144</sup>, figure here with kings and provincial governors as the officers charged by the Assyrian monarch with the administration of the countries which he had just conquered and made tributary.<sup>145</sup>

As was just intimated in proposing and justifying the rendering "revenue-officers" or "treasury-officials", we conclude from the context of Esarhaddon's reference to his *amêl-rab-kârê*<sup>MEŠ</sup> that the duties of these high-ranking functionaries comprised the task of collecting taxes for the king of Assyria. Since the authorities in the city of Aššur are known to have raised money by imposing (*emâdum*) payments of silver upon the *kârum* *Kaniš*<sup>146</sup>, and since, as was mentioned before, the latter collected various tolls and taxes<sup>147</sup>, a comparison of the earliest

or Ungnad in *Reallexikon der Assyriologie*, II, pp. 451 ff. sub Šulmu-šarri, Šamaš-bêla-ušur, Nabû-le'i, Mutakkil-Aššur, Nabû-dûra-ušur and Šulmu-bêli. As for the town of Šariš which figures in *K. 122* between the provincial capitals of Guzana and UD-nu-na, see below, p. 42, note 155.

<sup>143</sup> Published by Messerschmidt, *Keilschrifttexte aus Assur historischen Inhalts*, I, Leipzig 1911, No. 75.

<sup>144</sup> Thus with Meissner, *Babylonien und Assyrien*, I, Heidelberg 1920, p. 385, who characterized the *rab kâri* of the Neo-Babylonian sources as a "Steuerdirektor". Cf. also Delitzsch, *Handel und Wandel in Altbabylonien*, Stuttgart 1910, p. 33, who saw in this official the administrator of the "Schatulle", i. e. of the privy purse of a prince or king. This definition of the tasks of the *rab kâri*, which seems to have been suggested to Delitzsch by the comparatively numerous references to a *rab kâri šarri* (see, in addition to l. 18 of the above-cited letter, *K. 122*, the contracts quoted by Muss-Arnolt, *Dictionary*, p. 429, sub verbo *kâru* 2), is supported by the occurrence of a *rab kâri ša ummi šarri* in col. III, l. 25 of *K. 8143* (Johns, *Assyrian Deeds and Documents*, II, Cambridge 1901, No. 860); the title of this officer, as well as that of the afore-mentioned *rab kâri ša Mât-Tâmtim*, makes it particularly clear that the definition of the *rab kâri* as a "Hafeninspektor" (thus Salonen, *op. cit.*, p. 6) or as a "Kaivorsteher" (thus Ebeling, *Glossar*, p. 113) and the like is more or less inadequate. Delitzsch's interpretation of the functions of the *rab kâri* is also in line with a statement in the above-cited Neo-Babylonian document, *VAT 11*, according to which the *miksu*, i. e. the toll payable at the *bît kâri*, was to be given to the *bît šarri* (cf. Ungnad, *Glossar*, p. 89). Since, accordingly, the import duties and transit tolls collected at the river ports accrued directly to the royal household, it is understandable that the term *rab kâri* came to denote a high-ranking revenue-officer. As for the eligibility of the *rab kâri* to the *lînum* office, which leaves no doubt about his rank, see presently, p. 42.

<sup>145</sup> See obv., ll. 13 ff.: *nišê*<sup>MEŠ</sup> . . . . . <sup>146</sup>*š-lu-la a-na mât Aš-šur šarrâni*<sup>MEŠ</sup> *amêl-pâhâte*<sup>MEŠ</sup> *amêl-šaknûte*<sup>MEŠ</sup> *amêl-râb-kârê*<sup>MEŠ</sup> *ina eli mâtâtî-šû-n[u]* <sup>15</sup>*âš-kun-ma . . .* <sup>16</sup> . . . . . *biltu man-da-at-tû bêlûti-ia* <sup>17</sup>*šat-ti-šam-ma la na-[par-ka]-a e-mid-su-nu-ti i-šû-tu ap-šâ-a-ni*.

<sup>146</sup> This is learnt from the letter *TC 1*; cf. below, pp. 65 ff.

<sup>147</sup> It is pertinent to recall in this connection those letters of the kings of Babylon

Assyrian sources with those of the seventh century suggests that the administrative officers of the *kârum Kaniš* corresponded to the *amêl-rab-kârê*<sup>MEŠ</sup> of the Neo-Assyrian epoch. In other words, it appears that the functions performed by the *lîmu*-officers who, according to documents such as *EL* 225 and 298, acted for the *kârum Kaniš* in financial and other matters were much the same as those of, say, the *rab kâri ša Mât-Tâmtim* at the time of Aššur-bân-apli. However, since, according to the above-cited memorandum *BIN* IV 156 and cognate passages in some letters<sup>148</sup>, the *bît kârim* had also the task of paying for purchases of the *êkallum* of Kaniš, it is established that the *kârum Kaniš* served also as a kind of treasurer of the government of Halys Assyria. Hence it is logical to go a step further and to draw a parallel not only between the *lîmu*-officers of the *kârum* of Kaniš and the *rab kâri ša Mât-Tâmtim* but also between the *išši'akkum* Šelûlu, son of Dakiki, and Nabû-kudurri-ušur, the viceroy of the Sealand. When concluding on this basis that, just as Nabû-kudurri-ušur and his successor, Bêl-ibni<sup>149</sup>, were appointees of Aššur-bâni-apli, Šelûlu was a vassal of Irišum I or Ikûnum of Assyria<sup>150</sup>, we are obviously supported by the letters from Mâri since these invaluable sources revealed that, less than a century after Irišum's death, Šamši-Adad I entrusted the administration of two vital regions of his vast empire to his sons Išme-Dagan and Iasmaḥ-Adad who, to quote Thureau-Dangin<sup>151</sup>, exerted the functions of a sort of vice-king. In view of the many centuries which separate the officers of the *kârum Kaniš* from the *rab-kârê* of Esarhaddon and Aššur-bâni-apli it seems advisable, on the other hand, to present additional evidence and to show, above all, that the administrative organization alluded to by Esarhaddon in *Assur* 3916 was in line with much older precedent. We turn therefore to the administrative record *VAT* 9405<sup>152</sup> thanks to which the office of the *amêl-rabi kar-ru*<sup>153</sup> can be traced back to the Middle Assyrian epoch. In relating

which clearly imply that the collecting of certain taxes in kind was one of the various tasks of the *kâr Sippar*; see especially ll. 8 ff. of king Abi-ešuḥ's letter, *B. M. No. 27249* (King, *op. cit.*, II, No. 90; latest transliteration and translation by Ungnad, *Babylonische Briefe*, Leipzig 1914, No. 72).

<sup>148</sup> See above, p. 38 with note 132.

<sup>149</sup> On Bêl-ibni, who was perhaps a son of Nabû-kudurri-ušur and the father of Nabû-apla-ušur, see most recently Schawe, *loc. cit.*

<sup>150</sup> That Šelûlu was a vassal of Irišum or Ikûnum rather than of Šarrum-kên is likely because the namesake, who possessed his seal, was a contemporary of Šarrum-kên; cf. above, pp. 29 f. and below, pp. 72 ff.

<sup>151</sup> *Mélanges Syriens offerts à R. Dussaud*, I, Paris 1939, pp. 158 f.

<sup>152</sup> Published in transliteration and translation by Ebeling, *Mitteilungen der Orientalischen Gesellschaft*, VII, 1/2, 1933, pp. 50 f.

<sup>153</sup> As for the indiscriminate use of *kâru* and *karru*, see especially col. III, ll.



that the king's court received from a holder of this office a certain number of sheep, VAT 9405 shows him in virtually the same rôle as the provincial governors (*bêl pâhâte*) who, according to several contemporary records discussed by Weidner<sup>154</sup>, used to make similar contributions to the royal household. To attribute this fact to a mere coincidence would be difficult since some pieces of evidence permit us to define the *rab-kârê* and the governors of the provinces as administrative officers in similar positions and of more or less equal standing. There are, in the first place, the statements in the above-cited letter, K. 122, according to which Esarhaddon expected certain deliveries of grain for the Aššur temple in the ancient capital city of Assyria from the *amêl bêl pâhâte* of the "land" of Rašappa and (his colleagues of) the towns of Kakzi, Isana, Tille etc. as well as from Daijân-Adad, the *amêl rāb kâri šarri* of the town of Isana, (and his colleagues of) the "land" of Ḫal-zi-Ad-bar, the towns of Bîrtum, Arzuḫina, Arba-ilu, Guzana, Šariš<sup>155</sup> etc. Moreover, a Ninevite text from the middle of the seventh century<sup>156</sup> gives the eponym *mLa-ba-si* the title *amêl rāb ka-a-ri*<sup>157</sup>, thus showing that, like the governors of the provinces, the *rab-kârê* belonged to the small circle of functionaries eligible to the *lîmu* office.<sup>158</sup> Further evidence of the existence of links between the *rab-kârê* and hence the *kârû*, on the one hand, and the *bêl pâhâte* and hence the

x+10 ff. of the Second Tablet of the Series *ana ittišu*, where KAR.GU.LA = *kar-ru rabû* is preceded by KAR = *ka-ru*, KAR.BI = *ka-ar-šu*, KAR.GU.LA = *kar-gu-lu-û*; on the signification of these terms, which was elucidated by some Larsa texts discussed by Ch.-F. Jean, *Revue d'Assyriologie* 24, 1927, pp. 51 ff., see for the present Deimel, *Sumerisches Lexikon*, III, Roma 1932, p. 719 sub 8 and Landsberger, *Materialien zum Sumerischen Lexikon*, I, Roma 1937, p. 124.

<sup>154</sup> *Archiv für Orientforschung*, X, 1935-36, p. 14.

<sup>155</sup> To all appearances, this town recurs as *âl Ša-ri-šû* in l. x+2 of a fragmentary "Nimrud Tablet" briefly described by Wiseman, *Iraq* XV, 1953, p. 148 sub ND. 3481. For reasons which will soon become manifest, it is important to take cognizance of the fact that, in distinction from the other towns mentioned in ll. 19 ff. of K. 122, Šariš was certainly not the capital of a province.

<sup>156</sup> 83-1-18, 287 published by Thompson, *The Reports of the Magicians and Astrologers of Nineveh and Babylon*, London 1900, No. 264.

<sup>157</sup> Cf. Johns, *op. cit.*, II, p. 92; Tallqvist, *Assyrian Personal Names*, Helsingfors 1914, pp. 119 f.; Weidner, *Archiv für Orientforschung* XIII, 1939-41, p. 315.

<sup>158</sup> Hence we are not perplexed when learning from a unique inscription (YBC 7058, published by Stephens, *Votive and Historical Texts from Babylonia and Assyria*, New Haven 1937, No. 73 and transliterated and translated by Michel, *Die Welt des Orients*, I, 4, 1949, pp. 262 f.) that Iaḫâlu, who served as eponym in 833, 824 and 821, saw to it that the lot (*pûru*) he cast before becoming *lîmu* for the first or second time was inscribed with a prayer to Aššur and Adad in which he figured not only as *abarakku rabû* of king Shalmaneser III and governor of the town of Kibšunu, of several "countries" and of the "Cedar Mountain(s)" but also as *rāb ka-a-ri*.

districts administered by them, on the other hand, can be derived from the fact, known from the royal inscriptions of the Neo-Assyrian period, that many a major town to which the king gave a name of the above-mentioned type  $\text{âl}K\bar{a}r\text{-}^dX$  or  $\text{âl}K\bar{a}r\text{-}^mY$  became simultaneously the seat of a provincial governor.<sup>159</sup> That this seemingly unimportant feature

<sup>159</sup> Direct evidence to this effect is found (1) in Sargon's report on the capture and renaming of the city of Bêl-šarra-ušur, the man of Kišesim; see, e. g., l. 94 of his "Annals" (ed. Lie = l. 68 of Winckler's edition): *amêlšâtrêšîia amêlbêl pâhâti eli âlišu aškun*; (2) in the same ruler's report on the measures taken in connection with the capture and the renaming of Harhar; see, for instance, *ibidem*, ll. 97 f. (71 f.): *nišê mâtâtî kišitti qâtîia ina libbi* [i. e. in the conquered city] *ušêrib amêlšâtrêšîia amêlbêl pâhâti elišunu aškun*; (3) in Esarhaddon's statements concerning the founding and naming of Kâr-Aššur-aḥ-iddina; see, e. g., ll. 32 ff. of the so-called Prisms A and C (*Keilinschriftliche Bibliothek*, II, p. 126): *nišê ḥubut qaštîia . . . ina libbi ušêrib amêlšâtrêšîia amêlbêl pâhâti elišunu aškun* and note the important variant *amêlšâtrêšîia ana amêlpâhâtîu-ti elišunu aškunma biltu u mandattu eli ša mahri uttirma êmidšu* in col. III, ll. 13 ff. of the "Thompson Prism". As regards Tiglath-Pileasar's report on Kâr-Aššur (see l. 7 of the "Slab Inscription from Nimrûd, No. 1": *âla êpuš âlKâr-Aššur šumšu abbi nišê mâtâtî kišitti qâtîia ina libbi ušêrib amêlšâtrêšîia ina muḥḥi aškun*), a glance on l. 29 of the same inscription leaves no doubt that the omission after *amêlšâtrêšîia* of the usual *amêlbêl pâhâti* is due to the negligence of the scribe; cf. also the observations of Forrer, *op. cit.*, pp. 95 f. In other instances in which a town bearing a name of the type  $\text{âl}K\bar{a}r\text{-}^dX$  or  $\text{âl}K\bar{a}r\text{-}^mY$  was the seat of a governor, the relevant evidence is but indirect. But it would be difficult to deny that Tiglath-Pileasar's reference to a *pâhat* (NAM)  $\text{âl}K\bar{a}r\text{-}^dAdad$  ("Annals" l. 127) implies the presence of a district governor in that town. As for Kâr-Šulmânu-ašarid, Forrer, *op. cit.*, pp. 12 and 24 ff. succeeded as early as 1920 in making it very likely that it was the residence of a *bêl pâhâte*. (The contention of Thureau-Dangin, *Revue d'Assyriologie* 27, 1930, p. 12 with note 5 that the former town of Til-Barsip was not "chef-lieu de province" was from the beginning questionable because [ $\text{âl}K\bar{a}r\text{-}Šulmânu\text{-}ašarid$  figures in col. I[!], l. x+21 of the list *K. 4384* [*II R* 53, No. 1; Forrer, *op. cit.*, pp. 52 f.]; it can now be definitely dismissed since two or three Sultantepe tablets briefly mentioned by Gurney, *Anatolian Studies* II, 1952, pp. 25 ff. designate an eponym as "governor of Til-Barsip".) It must be recalled in this connection that, according to *Assur* 12674 (published by Schroeder, *Keilschrifttexte aus Assur historischen Inhalts*, II, Leipzig 1922, No. 56), one of the high-ranking officers of Tukulti-Ninurta I, a certain Ušur-namkur-šarri, was appointed *bêl pâhâte* of the newly founded town of Kâr-Tukulti-Ninurta (cf. Weidner, *Archiv für Orientforschung* XIII, 1939-41, pp. 114 and 318). The administrative practice here under discussion can thus be traced back almost to the time of the earliest documents so far known which mention functionaries designated as *bêl pâhâte*.

In order to avoid any misunderstanding of the purpose of this survey of the sources relating the stationing of a *bêl pâhâti* in Kâr-Tukulti-Ninurta, Kâr-Šulmânu-ašarid/Til-Barsip, Kâr-Aššur, Kâr-Nêrgal/Kišesim, Kâr-Šarru-kên/Harhar and Kâr-Aššur-aḥ-iddina, it must be stated, on the other hand, that the typical phrases just cited from the inscriptions of Tiglath-Pileasar III and his successors recur in numerous passages dealing with the first appointments of *bêl pâhâte* in other provincial capitals; see, e. g., col. IV, ll. 11 ff. of Esarhaddon's report on his annexation of Šubria

deserves our fullest attention can be seen from the warranty clause of a Middle Assyrian contract<sup>160</sup> in which the obligation of Teiauri, the seller of a slave-girl, to protect the latter's buyer "throughout Assyria" from the claims of third parties is stated in the following terms: *pa-ḥa-at pu-qur- <ra> -na-e* <sup>17</sup>*ša sinništi-šu ka-ra a-na ka-ri* <sup>18</sup>*ta-ḥu-ma a-na ta-ḥu-me* <sup>19</sup>*za-ku-e* [<sup>m</sup>*Te-i*]*a-ú-ri-ma* <sup>20</sup>*na-a-ši*.<sup>161</sup> Because, as was mentioned before, the functionaries of a *kâru* were "revenue officers" concerned, inter alia, with taxes and tolls, and because the "boundary" was always and still is a place where tolls are collected, we obviously need not comment upon the association of *kâru* and "boundary" (*taḥûmu*) with which we meet in the phrase *kâra ana kâri taḥûma*<sup>162</sup> *ana taḥûme*. But it is pertinent to emphasize that this phrase supplements the information already obtained from *K. 122* in as much as its use in the sense of "throughout Assyria" points to an ancient division of Assyria into contiguous districts in each of which a *rabi kâri* is likely to have discharged the duties of a collector of taxes and tolls.

Evidence that the division of a sizable territory into districts or provinces each of which included a *kârum* was actually something familiar to the Assyrians and accounts for their use of the idiom *kâra ana kâri taḥûma ana taḥûme* in the sense of "all over Assyria" is, in

(*K. 2852 + K. 9662*; latest publication, transliteration and translation by Th. Bauer, *Zeitschrift für Assyriologie* 40, 1931, pp. 234 ff.): *niše ḥubut qaštiia . . . ina libbi uša[šbi]l mâtu šâšu ana šiḥirtiša ana šinišu azûma 2 amêlšûtrêšia ana pâhûte elišunu aškun*.

<sup>160</sup> VAT 9038, published by Ebeling, *Keilschrifttexte aus Assur juristischen Inhalts*, Leipzig 1927, No. 169 and transliterated and translated by him *loc. cit.*, (see above, p. 41, note 152), pp. 81 f. In distinction from VAT 9038, the date of which is lost, an analogous contract which included a virtually identical warranty clause, VAT 8996 (Ebeling, *op. cit.*, No. 171) can be dated to the reign of Šulmânuašarid I or his famous son and successor; see Fine, *Hebrew Union College Annual* XXIV, 1952-53, pp. 233 ff.

<sup>161</sup> Koschaker, *Neue keilschriftliche Rechtsurkunden*, Leipzig 1928, p. 30, note 2 felt that this clause protects the buyer "überall", but he did not doubt that *kâra ana kâri taḥûma ana taḥûme zakku'e* means "das Freimachen von Hafen zu Hafen, von Grenze zu Grenze". The inadequacy of this rendering of *kâra ana kâri* becomes obvious if it is taken into consideration that Assyria, particularly as constituted when VAT 9038 and VAT 8996 (see the preceding footnote) were written, was by far not as rich in river-ports and canal-ports as was Babylonia at all times. (See also below, p. 46, note 176.) The translation adopted by Ebeling, *loc. cit.*, p. 82 — he renders *kâra ana kâri* by "Tribunal für Tribunal" — is likewise incongruous, all the more so since it disregards the implications of the parallel *taḥûma ana taḥûme*.

<sup>162</sup> It would seem that *kâra* and *taḥûma* are old accusatives to be compared with the adverbial accusatives discussed by von Soden, *Grundriss der Akkadischen Grammatik*, Roma 1952, p. 162 sub c and pp. 172 f. sub i and j.

fact, provided by the Kültepe texts. Besides acquainting us with the *kâru* of Kaniš, Waḥšušana and Buruṣḥaddum which, as we have seen, were governmental institutions entrusted, inter alia, with the task of collecting tolls and import duties from the caravans, these texts mention a "country of Kaniš"<sup>163</sup>, a "country of Waḥšušana"<sup>164</sup> and "a country of Buruṣḥaddum".<sup>165</sup> Moreover, as was likewise observed before<sup>166</sup>, two most valuable itineraries which must be analyzed in conjunction with the letters *KTHahn* 1 and *BIN* IV 35 prove (1) that a road which bifurcated at Waṣḥania<sup>167</sup> linked Kaniš with Waḥšušana, on the one hand, and Buruṣḥaddum, on the other, and (2) that the caravans carrying goods from Aššur to Kaniš and beyond covered the distances between the three places in journeys of a few days. These facts leave no doubt that the three "countries" just enumerated were contiguous. From the combination of the geographical evidence with the data pertaining to the tolls and, particularly, to the road tax (*ṭa'tum ša ḥarrānim*<sup>168</sup>) levied from the caravans it thus follows that the part of Halys Assyria about which we happen to be well-informed was divided into adjoining administrative districts each of which comprised a *kârum* established, of course, at the locality most suitable, namely in the traditional capital of the district. Since, furthermore, each of the towns of Tawinia, Ḥattuš/Boğazköy and Zalpa, which lay not particularly far apart from each other<sup>169</sup>, was the seat of a *kârum*<sup>170</sup>, it is logical to infer that the same administrative organization was operative throughout a territory much larger than the region circumscribed by the three names Kaniš, Waḥšušana and Buruṣḥaddum.

Before trying to integrate these data with other pieces of information relating to the administrative and political organization of Halys Assyria, we attempt to arrive at a fuller understanding of the implications of the term *kârum* on the basis of the Neo-Assyrian phrase *āš-šú*

<sup>163</sup> *TC* 18, 42; cf. *Orientalia* 21, 1952, pp. 288 f.

<sup>164</sup> *KTP* 10, 23; cf. *KTHahn*, p. 2 and *Symbolae Hrozný*, IV, pp. 367 f.

<sup>165</sup> *KTHahn* 1, 3; cf. *OLZ* 29, 1926, col. 965; *Symbolae Hrozný*, IV, p. 367, note 4.

<sup>166</sup> See pp. 13 ff. of the article quoted above, p. 18, note 76.

<sup>167</sup> I. e. to the southwest of Kaniš; cf. above, p. 20, note 86.

<sup>168</sup> The sources referring to this tax will be quoted below, p. 68, note 289; as for the "tithe" (*išrātum*) and the "5% duty" (*mētūm ḥamšal*), see above, p. 38.

<sup>169</sup> See Götze, *Revue Hittite et Asiatique* I, 1930-32, pp. 18 ff.

<sup>170</sup> A reference to the *kârum* *Ta-wi-ni-a* occurs in l. 11 of *L* — 29 — 562. (I am greatly obliged to S. N. Kramer for having permitted me an examination of this valuable document as well as of the other unpublished Kültepe texts in the University Museum at Philadelphia.) The *kârum* *Ḥattuš* figures in a tablet cited by Gelb apud Hardy, *American Journal of Semitic Languages* LVIII, 1941, p. 179, note 6. As for the *kârum* *Zalpa*, see above, p. 20, note 85 and p. 37, note 130 and cf. below, p. 60.

*šur-šud<sup>ud</sup> kar-ri kun-ni palê-ia* which occurs in l. 36 of the so-called Charter of the City of Aššur.<sup>171</sup> In view of the parallelism obtaining here between *kâru* and *palû*, and because *šuršudu* recurs elsewhere in connection with *palû*<sup>172</sup>, the phrase attests the use of *kâru(m)* in the sense of "government".<sup>173</sup> Since, furthermore, a newly constructed city destined to serve as residence of its builder, king Tukulti-Ninurta I (1243-1207 B. C.), was given the name *âlKâr<sup>m</sup>Tukulti<sup>i</sup>-dNinurta*, it appears that our term conveyed also the notion "seat of the government".<sup>174</sup> This means, however, that, on principle, every town or town-quarter serving as center of an administrative district and, accordingly, provided or linked with a "palace" and/or other government buildings and offices could be designated as a *kârum*.<sup>175</sup> As such it could, of course, be given a name of the type *âlKâr<sup>d</sup>X* or *âlKâr<sup>m</sup>Y* even if it was not located on a navigable river or on the sea and did not therefore serve as a port.<sup>176</sup>

The correctness of these deductions becomes evident if we turn

<sup>171</sup> K. 1349, published by Winckler, *Sammlung von Keilschrifttexten*, II, Leipzig 1894, p. 1. Cf. further *Assur* 1783 (Messerschmidt, *op. cit.*, No. 51), col. II (sic), ll. 17 ff.: *u gir-ri-e* <sup>18</sup>[šá *šur-šu*]-*di kar-ri* <sup>19</sup>[šul-bu]r *palê-ia*.

<sup>172</sup> See Aššur-nâšir-apli II, "Annals", col. I, ll. 11 f.: *šá . . . . . tu-šar-ši-du palâ-šu*.

<sup>173</sup> The same rendering makes good sense in the section of the Epic of Creation (ed. Labat I, 147 ff.) which relates how Ummu Hubur entrusted Kingu with the *rab-sikkatûtu* and *ušêšibaššu ina kar-ri*. Some Old Assyrian texts referring to the *rabi sikkitim* favor this interpretation: To judge by BIN VI 23, the *rabi sikkitim* acted in certain matters for the *êkallum* and its princely inhabitants. Moreover, visitors of the *rabi sikkitim* had "to go up" (see *Gol.* 14, 24 f.: [a]-*na rabi [si-ki]-ti-im e-li-ma* <sup>25</sup>*um-ma a-na-ku-ma*), as had people who had business with "the palace" (see, for instance, *TuM* I, 1<sup>b</sup>, 4<sup>b</sup> ff.: *a-na êkallim<sup>lim</sup> 5e-li-ma um-ma 6be-el a-lim<sup>K1</sup>*) or were received by a prince (see, e. g., *TC* III 75, 4<sup>b</sup> ff.: *i-na 5Na-du-ùh-tim wa-dš-ba-ku 6a-dí 10 a-na ru-ba-im 7ú ší-na-hi-li-im ni-li-ma 8um-ma a-na-ku-ma*).

<sup>174</sup> If, following Landsberger, *Zeitschrift für Assyriologie* 35, 1924, p. 223, note 2, one would assume that the first element of the name *Karduniaš* is the Akkadian term here under discussion, he would thus arrive at the conclusion that the Kassites defined Babylonia as the residence of their god Duniaš. The rendering of *Karduniaš* resulting from this conclusion, viz. "Realm of Duniaš", would certainly be more plausible than a translation of the name on the basis of any of the significations "Stapelplatz", "Faktorei", "Kolonie", "Handelskommune" attributed to *kârum* by Landsberger.

<sup>175</sup> It seems à propos to recall in this connection the American habit of giving the name "Government Square" to squares in provincial towns on which a "federal building" with offices of the United States Government is located.

<sup>176</sup> The contention of Unger, *Babylon* (Berlin und Leipzig 1931), p. 96 and El-Amin, *Sumer* IX, 1953, p. 50 that names of this class were given only to towns situated on a navigable river and provided with a "Hafenkai" is not borne out by the sources. The royal inscriptions relating the (re)naming of *âlKâr<sup>d</sup>Nabû*, *âlKâr<sup>d</sup>Sîn*, *âlKâr<sup>d</sup>Adad*, *âlKâr<sup>d</sup>Ištar* and *âlKâr<sup>md</sup>Sîn-aḥḥê-erība* link only one of these



again to the afore-cited Neo-Assyrian sources and take cognizance of the following details: (1) Before being captured and renamed Kâr-Šulmânu-ašarid, the town of Til-Barsip was the "royal city" of Aḫuni<sup>177</sup>; the conqueror who changed its name reports the construction of another palace and states that he henceforth saw in this ancient town one of his own "royal cities".<sup>178</sup> (2) When Tiglath-Pileasar III built the town of Kâr-Aššur near the site of Til-Kamri/Ḫumut, he provided it with a palace.<sup>179</sup> (3) The town of Kišêsim to which Sargon gave the name Kâr-Nêrgal included the palace of Bêl-šarra-ušur, its former ruler.<sup>180</sup> (4) When Sennacherib conquered the town of Elenzaš and named it Kâr-Sîn-aḫḫê-eriba, he turned it into a "royal city" and "stronghold" of a district (*nagû*).<sup>181</sup> Being linked in the sources with the afore-cited statements concerning the stationing of governors in the conquered towns, these data certainly amount to a suggestive commentary on the "palace" of Kaniš and the above-described part it played in the letters and business records of the Assyrians of Halys Assyria.

Since, when sitting as a court, the municipal authorities of the various *kârû* in Anatolia performed their functions "in the presence of Aššur's dagger"<sup>182</sup> or of his "*šugarriâ'um*"<sup>183</sup>, and since a local sanctuary of the god Aššur figures in a letter of the *kârûm* Uršu<sup>184</sup>, it is also

five towns, namely *âlKâr-dAdad* (the former *âlAn-za-ri-a*), with an "upper and lower river" (*nâru elîtu šaplîtu*) and leave it open whether these rivers were navigable. Any attempt to explain this negative testimony of the sources as fortuitous because a river figures in the sculpture showing the capture of the city of Ḫarḫar/Kâr-Šarru-kên or because Kâr-Tukulti-Ninurta, Kâr-Aššur-nâšir-apli, Kâr-Šulmânu-ašarid were actually situated on Mesopotamia's big rivers must be rejected in view of the well-established location of Kaniš and Ḫattuš and the probable location of Tawinia, Buruḫaddum and Waḫšušana.

<sup>177</sup> See, e. g., col. I, l. 58 of *IM* 54669, published by Cameron, *Sumer* VI, 1950, pp. 10 ff.

<sup>178</sup> See col. II, ll. 33 f. of Shalmaneser's "Monolith from Kurkh" (*III R* 7 f.; *Keilinschriftliche Bibliothek*, I, pp. 150 ff.): *âlTil-Bar-si-ip âlA-li-gu* [*âl . . .*] *šâ-gu-qa a-na âl šarrûti-ia aš-bat nišê amêlAš-šu-ra-a ina lib-bi ú-še-šib êkallâte*<sup>MEŠ</sup> *ie a-na šu-bat šarrûti-ia ina qî-rib-šû ad-di*.

<sup>179</sup> Tiglath-Pileasar III, "Annals", ll. 9 f.

<sup>180</sup> Sargon, "Annals", ll. 93 ff. (ed. Lie = ll. 67 ff. of Winckler's edition).

<sup>181</sup> See, e. g., col. II, ll. 23 ff. of the "Taylor Prism": *âlEl-en-za-dš a-na âlšarrûti* *ù dan-na-at na-gi-e šu-a-tu aš-bat-ma šum-šû maḫ-ra-a ú-nak-kir-ma âlKar.mdSîn-aḫḫê*<sup>MEŠ</sup> *erîba at-ta-bi ni-bit-su nišê*<sup>MEŠ</sup> *mâtâte ki-šit-ti qâtê*<sup>II</sup> *ia i-na lib-bi ú-še-šib i-na qâtê*<sup>II</sup> *amêlšu-ut-rêši-ia amêlbêl pâḫate âlḪarḫar am-nu-ma ú-rap-piš ma-a-ti*.

<sup>182</sup> See, for instance, *EL* 245 ff.; 251 ff.; *ICK* 86.

<sup>183</sup> On this emblem of the god Aššur see above, p. 17, note 73 and cf. *Orientalia* 19, 1950, pp. 23 ff.

<sup>184</sup> See above, p. 18, note 74.

pertinent to recall another feature of the Neo-Assyrian sources here under examination. They repeatedly report that when a major town was captured and given a name characterizing it as a *kâru*, the Assyrian conquerors established there a cult<sup>185</sup>, thus symbolizing its incorporation into Assyria and placing it under the protection of the victor's national deities. Since, significantly enough, the same measure was taken upon the annexation of towns which were neither renamed nor made a provincial capital<sup>186</sup>, it is certainly not surprising that the usual reference to one of Aššur's weapons appears even in the records of disputes submitted by the litigants not to a *kârum* but to the one or the other among those numerous smaller communities which figure in the Kültepe texts as *wubârâtum*.<sup>187</sup>

Of much greater importance for the fundamental question as to the origin and character of the Assyrian settlements in Halys Assyria are, however, those laconic passages of the reports on Til-Barsip/Kâr-Šulmânu-ašarid<sup>188</sup>, Harḥar/Kâr-Šarru-kên<sup>189</sup>, Elenzaš/Kâr-Sîn-aḥḥê-erība<sup>190</sup>, Kâr-Aššur and Kâr-Aššur-aḥ-iddina<sup>191</sup> which state that care was taken to populate these towns either with Assyrians or with people deported from regions newly subjugated.<sup>192</sup> The earliest of these passages, Shalmaneser's statement on the annexation and Assyriani-

<sup>185</sup> For the evidence see (1) Tiglath-Pileser III, "Annals", l. 10: *iskakki Aššur bêliia ina libbi* (i. e. in *âlKâr-Aššur*) *arme*; (2) Sargon, "Annals", ll. 97 ff. (ed. Lie = ll. 71 ff. of Winckler's edition): *nišê mâtâtî kišitti gâtîia ina libbi* (i. e. in Harḥar/Kâr-Šarru-kên) *ušêrib . . . . . iskakki dAššur bêliia ana ilûtišun aškun* (cf. l. 63 of the "Display Inscription: *âlKâr-mŠarru-kên šumšu azkur iskakki dAššur bêliia ina libbi ušêrib šalam šarrûtiia ina qirbišu ulziz*); (3) Sargon, "Annals", ll. 94 f. (68 f.): *ilâni âlikût mahriia ina qirbišu* (i. e. in Kišesim/Kâr-Nergal) *ušêrib*.

<sup>186</sup> Cf. the concluding statement of Sennacherib's report on the Cilician campaign in col. IV of the King Prism (B. M. No. 103000; latest transliteration and translation by Luckenbill, *The Annals of Sennacherib*, Chicago 1924, pp. 61 f.): *âlIllubru ana eššûte ašbat nišê mâtâtî kišitti gâtîia ina libbi ušêrib kakki dAššur bêliia qiribšu ušarme narâ ša parûti ušêpišma maharšu ulziz*.

<sup>187</sup> On these communities see below, pp. 59 ff.

<sup>188</sup> See above, p. 47, note 178.

<sup>189</sup> See above, p. 43, note 159 sub 2.

<sup>190</sup> See above, p. 47, note 181.

<sup>191</sup> See above, p. 43, note 159 sub 3.

<sup>192</sup> From the viewpoint of the present investigation, it is insignificant that the people sent to Kâr-Aššur, Kâr-Šarru-kên and Kâr-Aššur-aḥ-iddina were not Assyrians. When Sargon transformed the countries of Ḥamât and Tabal into provinces administered by a *bêl pâḥati*, he settled there Assyrians (Stela from Cyprus, col. I, ll. 61 ff.; "Display Inscr.", l. 32), as he did at Karkemiš ("Annals", l. 76 ed. Lie). Similarly, it follows from Aššur-bâni-apli's inscriptions that, upon establishing Assyrian authority in Egypt, Esarhaddon settled Assyrians in and around Memphis; see H. Lewy, *Journal of Near Eastern Studies* 11, 1952, p. 280, note 83.

zation of Til-Barsip, Aligu and a third town the name of which is but incompletely preserved<sup>193</sup>, is followed by a somewhat fuller account of the occupation of a town on the western bank of the Euphrates, Pitru/Ana-Aššur-utir-ašbat, and of Mutkînu<sup>194</sup>; significantly enough, Shalmaneser tells us here that in settling Assyrian people (LÚ<sup>MEŠ</sup> *e amêl* Āš-šu-ra-a-a) in these re-annexed places he followed the example of Tiglath-Pileser I. (As was repeatedly noted, this information about the colonization of a border province by a Middle Assyrian ruler is supplemented by some similar statements in the inscriptions of Shalmaneser's father, Aššur-nâsir-apli II, which mention (the descendants of) Assyrians [LÚ<sup>MEŠ</sup> *e mât* Āš-šu-ra-a-a] settled by "Šulmânuašarid, the king of Assyria, a prince who preceded me"<sup>195</sup>, in the fortresses of Sinabu and Tîdu<sup>196</sup>, in the country of Nairi<sup>197</sup> and in Ḫalzi-Luḫa.<sup>198</sup> Besides showing that the efforts of Tiglath-Pileser I

<sup>193</sup> See above, p. 47, note 178.

<sup>194</sup> See Shalmaneser's "Monolith from Kurkh", col. II, ll. 36 ff.

<sup>195</sup> That is Shalmaneser I; see Winckler, *Geschichte Babyloniens und Assyriens*, Leipzig 1892, p. 160; Meissner, *Könige Babyloniens und Assyriens*, Leipzig 1926, pp. 104 and 134.

<sup>196</sup> See Aššur-nâsir-apli, "Monolith from Kurkh", rev., ll. 43 f.: *âlSi-na-bu âlTi-i-du bi-ra-a-te šá mâtŠul-ma-nu-ašarid šarru mâtAš-šur rubû a-lik pâni-ia ana mâtNa-i-ri ú-šá-aš-bi-tû-ni*. As for the capture of Tîdu/Taidu by Shalmaneser I, see col. III, ll. 1 ff. of *Assur* 859 (*Keilschrifttexte aus Assur historischen Inhalts*, I, No. 13 and dupl.; latest transliteration and translation by Weidner in *Altorientalische Bibliothek*, I, Leipzig 1926, pp. 110 ff.). According to the contract VAT 9016 (Ebeling, *op. cit.*, No. 121), which Fine, *loc. cit.*, p. 233 dates to the time of Shalmaneser I, the victorious Assyrian stationed a *bêl pâḫite* in Taidu. In doing so, he may well have followed the example of the first Assyrian conqueror of Taidu, Adad-narâri I. For the latter not only describes Taidu as the "big residence" of the defeated king of Ḫanigalbat but also reports having rebuilt the "p[alace] of the city of Taidu"; see obv., ll. 29 f. of *Assur* 10557 (published by Weidner, *Archiv für Orientforschung* V, 1928–29, pp. 90 and 97 ff.) and rev., ll. 37 ff. of *Assur* 5764+9309 (Weidner, *ibidem*, pp. 92 f. and 100), respectively.

<sup>197</sup> See Aššur-nâsir-apli, "Monolith from Kurkh", rev., ll. 45 ff.: *nišêMEŠ e mâtAš-šur-a-ia šá ina mâtNa-i-ri bi-ra-te šá Aš-šur ú-kal-lu-ú-ni šá mâtA-ru-mu ik-bu-su-šú-nu-ni âlânIMEŠ ni-šú-nu bi-tâte* <sup>HI.A</sup> *MEŠ-šú-nu na-tu(!)-te(!) ú-šá-aš-bi(!)* [thus according to obv., ll. 23 f. of the "Annals of Tukulti-Ninurta II" and col. II, l. 10 of Aššur-nâsir-apli's "Annals"] *šub-tu ni-iḫ-tu ú-še-ši-ib-šú-nu*.

<sup>198</sup> See Aššur-nâsir-apli's "Annals", col. I, ll. 101 ff.: "They reported as follows: 'The Assyrian people — their city-ruler is Ḫulâia — whom Shalmaneser . . . settled in the land (variant: "in the town") of Ḫal-zi-Lu-ḫa revolted. They marched against Damdamusa, my royal city' . . . ." As I intimated in *Orientalia* 21, 1952, p. 394, note 1, the toponym *Ḫal-zi-Lu-ḫa* defines the territory so named as a fortified area near the town of Luḫa which, in turn, gave its name to the "country of Luḫa". (See also below, p. 57.) Shalmaneser reports the capture of that land in col. I, l. 34 of *Assur* 859 (see *supra*, note 196).

to colonize a newly occupied territory were by no means unprecedented, Aššur-nāšir-apli's statements [to which we shall revert below, pp. 54 ff.] acquaint us with a significant detail: they show that Assyrian settlements in foreign lands were capable of surviving for centuries during which Assyria, having suffered reverses and heavy territorial losses, was prevented from exerting its authority in the countries previously subdued and compelled to pay tribute.<sup>199</sup> It goes almost without saying that such power of resistance explains the afore-mentioned fact that *Ἀσσυρία* denotes in some Greek sources the Anatolian regions for which we proposed, for the reasons expounded above, pp. 16 f., the convenient designation Halys Assyria.)

When now summarizing the results of our examination of the circumstances in which first Tukulti-Ninurta I and subsequently the great conquerors of the ninth, eighth and seventh century gave certain towns names characterizing them as *kâru*, we are obviously in a position to dismiss as unproven and unprovable assertions to the effect that those towns were trade-centers founded abroad by merchants not protected by their native country. In fact, we saw that in many cases those names were coined as designations for major towns which, in connection with the incorporation into the Assyrian empire of the territories surrounding them, were populated or repopulated and became the seats of governors who, to all appearances, resided in "palaces".<sup>200</sup> But it must also be emphasized that, according to the above-cited statement of the "Taylor Prism"<sup>201</sup>, Sennacherib placed the newly annexed "royal city" and "stronghold" of Kâr-Sîn-aḥḫê-erība under the jurisdiction of the governor of Ḫarḫar/Kâr-Šarru-kên. This fact makes it clear that the definition of a town as a *kâru* or "seat of the government" depended not on its status as capital of a province but on the presence within its walls of one of those high-ranking functionaries of the royal treasury who figure in the afore-cited Middle and Neo-Assyrian sources as *rab-kârû*. In other words, *kârû* in which only offices of the treasury were located must be distinguished from *kârû* which were also provincial capitals. It goes almost without saying that treasury officials stationed in a provincial capital

<sup>199</sup> Meissner, *Babylonien und Assyrien*, I, Heidelberg 1920, p. 106 has correctly observed that the Assyrian colonists referred to in the inscriptions just quoted were veterans whom the kings provided with a livelihood in settling them in the newly annexed territories. But since the sources speak of LÚMEŠ<sup>ē</sup> and not merely of ERÍNMEŠ, it is appropriate to characterize them as Assyrian veterans and their families. See also below, p. 57.

<sup>200</sup> Cf. above, p. 47.

<sup>201</sup> See above, p. 47, note 181.

are likely to have been the superiors of the *rabi kârê* charged with the collection of tolls and taxes in the other *kârû* within the same province.

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Having become acquainted with the implications of the administrative term *kâru* as used in legal documents, in official records and letters and in royal inscriptions of the later periods as a designation of major towns, we are prepared to examine the conditions obtaining in the nineteenth pre-Christian century in the capital city of Halys Assyria with a view to determining whether with respect to its administrative institutions Kaniš compares with, say, Kâr-Sin-aḥḥê-erība or rather with provincial capitals such as Kâr-Tukulti-Ninurta, Kâr-Šulmānu-ašarid or Kâr-Šarru-kên. Now there are, as will be recalled, among the official documents found at Kültepe, messages by which the *kârum Kaniš* transmitted orders to other *kârû*<sup>202</sup> as well as reports of various *kârû* to the *kârum Kaniš*<sup>203</sup>; one of the latter documents ends with the well-known phrase *abbâ'ûni bēlûni attunu*<sup>204</sup>, by which men in a lower position used to express their devotion to their masters. Since, accordingly, the functionaries of the other *kârû* recognized those of the *kârum Kaniš* as their superiors, it is manifest that the position of the officers of the *kârum Kaniš* was virtually the same as that of a *rab kâri* of the later periods who served his king in a provincial capital. Hence Kaniš presents itself as the capital of an Assyrian province — yet a province much larger than the provinces of the Neo-Assyrian Empire —, whereas the other Anatolian towns which were seats of a *kârum* compare with those district capitals within a Neo-Assyrian province in which a *rab kâri* but no *bēl pâḥate* was stationed.

In arriving thus at the conclusion that Kaniš was the capital of a vast Assyrian province we are certainly borne out by the data already

<sup>202</sup> The individual *kârû* named in the addresses of such letters are those of Buruṣhaddum (*Gol.* 19), Durḥumid (*TC* 35), Hurrama (*BIN* VI 32) and Waḥšušana (*TC* 60). Cf. further the letter *BIN* VI 101, the damaged address of which reads: *um-ma kâ-[ru-um] 2Kâ-ni-iš-[ma a-na] 3kâ-ri-im [.....] 4qî-bi-ma*, and the above-mentioned message *BIN* VI 8, which is addressed to *kâ-ar kâ-ar-ma*, i. e., as was first observed by Stephens, to "each and every *kârum*".

<sup>203</sup> This group of official letters comprises so far communications from the *kârum Uršu* (*SUP* 7; cf. above, p. 18, note 74), *kârum Durḥumid* (*Oxford* 685) and *kârum Waḥšušana* (*O* 82; cf. Zimmern, *Zeitschrift für Assyriologie* 32, 1918-19, p. 51. I am obliged to M. Louis Speleers for having permitted me in 1938 to inspect this unpublished document.).

<sup>204</sup> See above, p. 18, note 74 and cf. p. 19, note 79.



discussed. As regards especially the essential question whether Kaniš was the seat of an official as high-ranking as a *bêl pâhate* and residing in a "palace", we need not repeat that the *bît kârim* of Kaniš functioned as treasurer of the "palace"<sup>205</sup> and that both the "palace"<sup>206</sup> and an *išši'akkum* or "viceroy" of Assyrian nationality, usually designated as "prince" (*rubâ'um*), played a rôle in the affairs of the Assyrians of Kaniš.<sup>207</sup> But since it is logical to assume that not only Assyrians had dealings with the administration headed by the viceroy, it is not superfluous to quote here the contract *EL* 209; for this unique document mentions the "palace" in connection with an agreement which, to judge by the names of the contracting parties and the witnesses, concerned exclusively persons belonging to the so-called native element within the population of Kaniš.<sup>208</sup>

That the viceroy of Halys Assyria actually acted in much the same way as, for instance, Aššur-bâni-apli's *bêl pâhâti* when their provinces were invaded by marauders<sup>209</sup> is established by *CCT* III 44<sup>b</sup>; as stated before<sup>210</sup>, this letter attests the prince's readiness to protect with his armed forces travelling Assyrian merchants and their goods against dangers menacing them on the highways. The fact, revealed by the above-discussed letter, *KTP* 14, that two representatives of the "government" (*mâtum*) of Kaniš were expected to administer an oath of allegiance to be sworn by the head of a small state in the neighborhood of Kaniš<sup>211</sup> proves likewise that the status of the ruler of Halys Assyria corresponded to that of a governor or viceroy of the Neo-Assyrian epoch. This becomes particularly clear if one turns to the letter 83-I-18, 4<sup>212</sup> in which Bêl-ibni, the afore-mentioned viceroy of the "Sealand", told king Aššur-bâni-apli that he and his staff "caused many Sealanders, servants of the king, my lord, to take the oath" and that all of them "set their faces unto the vassalage of the king, my lord".<sup>213</sup> It goes almost without saying that the "Sealanders", to

<sup>205</sup> Cf. above, p. 38.

<sup>206</sup> See, inter alia, p. 24, note 103, and p. 21.

<sup>207</sup> As for the habit of designating the same princely persons of Assyrian nationality as *rubâ'um* and as *išši'akkum*, see above, p. 30 with note III d.

<sup>208</sup> The prince and princess who figure in the much-discussed document *EL* 188 do not seem to have resided at Kaniš.

<sup>209</sup> See especially col. B of the fragmentary prism *TM* 1931-32, published by Thompson, *Iraq* VII, 1940, p. 101 and fig. 12.

<sup>210</sup> See pp. 21 ff.

<sup>211</sup> Cf. above, pp. 17 ff.

<sup>212</sup> Published by Harper, *op. cit.*, V, Chicago 1900, No. 521; cf. Waterman, *p. cit.*, I, pp. 366 ff.

<sup>213</sup> Additional evidence to the effect that the viceroys and provincial governors had the task of controlling the vassals of their kings is furnished, inter alia, by

whom the viceroy administered the oath of allegiance and whom he describes as eager to serve the Assyrian overlord, compare not only with the prince of Wašḥania but also with the princes of other small states such as Kuššara whose non-Assyrian names appear occasionally in the tablets from Kültepe and Alişar. Since, as was recently shown by Hildegard Lewy<sup>214</sup>, Šamši-Adad I entrusted the son who represented him at Mâri as a sort of viceroy<sup>215</sup> with the supervision of king Işar-Lim of Ḫana, we may even go a step further and conclude that it belonged to the duties of the *išši'akkum* at Kaniš to see to it that the *rubâ'um rabî'um* of Burušhaddum<sup>216</sup> and the ruler of Ḫaḫḫum, who may have been a king<sup>217</sup>, lived up to their obligations of faithful vassals of the common overlord, the *rubâ'um* of Aššur.

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In our opinion, the evidence gathered in the preceding pages should fully suffice to make it manifest that the political and administrative conditions obtaining in Halys Assyria during the period covered by the bulk of the Kültepe texts at present available are due to the annexation of Cappadocia by an empire builder who made his conquest safe by settling Assyrians in the numerous towns of Asia Minor which figure in the Old Assyrian texts in part as *kârû* and in part as *wubârâtum*. But as such an interpretation of the sources has so far not been given adequate consideration by those who, in spite of all indications

Sennacherib's report on his eighth campaign. In order to make it perfectly clear that Šûzubu, the Chaldean, was a rebel without any legitimate claim to the Babylonian throne, Sennacherib characterizes him as a "servant" (i. e. a "vassal") "subject to the governor of Laḫiru"; see col. V, ll. 21 f. of the Chicago Prism (*amêlardu dâgîl pân amêlbêl pâḫate âlLaḫiri*) and cf. the observations of H. Lewy, *loc. cit.*, pp. 274 f.

<sup>214</sup> In *Mélanges Isidore Lévy*, Bruxelles 1955, pp. 249 f.

<sup>215</sup> Cf. above, p. 41.

<sup>216</sup> See *Cont.* 27, 6 ff. (*a-na Bu-ru-uš-ḫa-dim ʾa šê-er ru-ba-im rabî'im(!) ʾi-ša-pâr-šu-ma . . .*) and cf. *Revue Hittite et Asiatique* III, 1934-36, p. 5.

<sup>217</sup> That Ḫaḫḫum was the capital of a kingdom can, as was intimated by Landsberger, *Belleten* 10, 1939, pp. 216 and 223, be inferred from the letter CCT IV 30a; cf. also Bilgiç, *Ankara Üniversitesi Dil ve Tarih-Coğrafya Fakültesi Dergisi* VI, 5, 1948, p. 502. The writer of that letter reports about the unsatisfactory discussion which he, the *ešartum* of Ḫaḫḫum and a certain Idi-Kubum and his travelling companions had in the palace with the princes, i. e., perhaps, the prince and his consort. Requesting his correspondent, Innâa (cf. above, p. 26, note 109), to bring the matter to the attention of the *kârum*, he characterizes the ruler of Ḫaḫḫum as a blood-guilty king whose throne is unstable (see ll. 13 f.: LUGAL *da-me e-ta-pá-âš-ma kû-si-šu lá ta-aq-na-at*).

to the contrary<sup>218</sup>, have taken it for granted that the commercial penetration of Anatolia by Assyrian merchants was brought about by powerless but enterprising founders of trading posts or "Handelskolonien", it seems not superfluous to adduce additional arguments in favor of our view. Hence we proceed now to the question whether the methods applied by the conquering Assyrian kings of the later periods when trying to achieve the permanent possession and economic exploitation of regions far beyond the original boundaries of the old city state of Aššur are discernible in the Old Assyrian records.

As was recalled above, pp. 49 f., valuable data about the transfer of "Assyrian people" (*niš<sup>2</sup>MEŠ e Aš-šu-ra-a-a*) to foreign lands are found in the royal inscriptions of the ninth century. There is, for instance, the account on the settling of Assyrian colonists in Aribua, the "strong city of Lubarna of Ḫattin", of which Aššur-nâsir-apli "took possession for himself".<sup>219</sup> Since he did so without the use of force, Lubarna having surrendered as early as the Assyrian army appeared before Kunulua<sup>220</sup>, and since his report does not say that the inhabitants of Aribua were ousted<sup>221</sup>, it is obvious that Lubarna's former subjects and the Assyrians were to live together in Aribua.<sup>222</sup> The living together of "natives" and Assyrians as attested by the documents from Kaniš<sup>223</sup> and confirmed by the recent excavations at Kültepe is therefore not unparalleled. Hence we see no reason for

<sup>218</sup> Cf. my remarks in *Orientalistische Literaturzeitung* 29, 1926, col. 759.

<sup>219</sup> See Aššur-nâsir-apli, "Annals", col. III, ll. 81 ff.: *a-na âlA-ri-bu-a âl dan-nu-ti-šú šá mLu-bar-na mâtḪat-ti-na-a êtarba<sup>ba</sup> 82âla a-na ra-me-ni-ia aš-bat . . . . . niš<sup>2</sup>MEŠ e mâtAš-šu-ra-a-a 83ina lîb-bi ú-še-šib*. As for evidence permitting the identification of Aribua with the present town of Rubê'a or Rbê'a in the Ġebel Rîhâ, see J. Lewy, *Orientalia* 21, 1952, pp. 401 f.

<sup>220</sup> See "Annals", col. III, ll. 72 ff.; on the location of Kunulua see Elliger in *Festschrift Otto Eissfeldt*, Halle 1947, p. 71 and cf. J. Lewy, *loc. cit.*, pp. 398 ff.

<sup>221</sup> This is all the more significant since references to the deportation of conquered populations are not lacking in Aššur-nâsir-apli's "Annals"; cf. II, 31 ff.; III, 43 f.

<sup>222</sup> Similarly, there is hardly any reason for assuming that the settling of Assyrians at Pitru/Ana-Aššur-utir-ašbat and Mutkinu (see above, p. 49) led to the displacement of the Aramaean population of these towns. While Šalmaneser tells us that he deported in his fourth year 22000 of Aḫuni's warriors (see, for instance, *IM* 54669, col. II, ll. 3 ff.), his statements concerning the re-annexation of Pitru and Mutkinu in his third year make no mention of such measures. As the pertinent passage of the "Monolith from Kurkh" is introduced by *ina ûmîšûma* (see II, 35), it seems, in fact, that the Assyrian settlers arrived in the two towns after the end of the campaign which resulted in the capture of Til-Barsip and its transformation into the provincial capital of Kâr-Šulmânû-ašarid. In other words, it seems possible that the settling of Assyrians in the towns which Aššur-rabi II had lost to the Aramaeans was achieved without use of force.

<sup>223</sup> Cf. above, p. 15, note 65.

sharing the bewilderment of H. Çambel (*loc. cit.*, p. 246) at the fact that, as she puts it, "das Kolonieviertel" of Kaniš presents itself as "eine absolut einheimische anatolische Siedlung".<sup>224</sup>

Another feature of Assyrian colonization is revealed by Aššur-nâsir-apli's above-mentioned references to settlements which had been founded by Shalmaneser I. The fact that our source speaks in this connection of "fortresses" (*bîrâti*)<sup>225</sup> and of "Assyrian people who hold Aššur's fortresses in the country of Nairi"<sup>226</sup> suggests that, in distinction from the "Assyrian people" settled by Aššur-nâsir-apli at Aribua, Shalmaneser's colonists did not live together with "natives". This conclusion is in agreement with the evidence furnished by the report on the measures taken by Aššur-nâsir-apli himself in the desolated town of Tušḫa which he refortified and provided with a "palace".<sup>227</sup> For he tells us that the population of this fortress, which became the capital of a province administered by a *bêl pâḫate*<sup>228</sup>, was to consist of "the ruined Assyrians who, confronted with want and hunger, had gone up to the mountains (and) to other lands, (namely) to the land of the Šubrians".<sup>229</sup> In other words, the Assyrians realized that their rule over the subjected countries could be maintained only if the "natives" were not allowed to live in the fortresses to be held by the conqueror's armies in case of insurrection or war. Keeping the

<sup>224</sup> To all appearances Bayan Halet Çambel never heard of the objections which I raised as early as 1925 (see *Zeitschrift für Assyriologie* 36, p. 25; cf. also *Orientalistische Literaturzeitung* 29, 1926, col. 754) against Landsberger's assertions to the effect that "die Assyrier sich streng von der einheimischen Bevölkerung schieden".

<sup>225</sup> See above, p. 49 with note 196.

<sup>226</sup> See above, p. 49, note 197. Instead of *Aš-šur* (without any determinative!), an inscription of Aššur-nâsir-apli's grandfather has in a similar context *mât dA-šur*; see VAT 8288 (Schroeder, *Keilschrifttexte aus Assur historischen Inhalts*, II, No. 84), l. 34: (Adad-nirâri who made return to the territory of his country [i. e. who reannexed]) *âlI-du âlZaq-qu bi-ra-a-te*MEŠ *šâ mât dA-šur*.

<sup>227</sup> See Aššur-nâsir-apli, "Annals", col. II, ll. 2 ff.

<sup>228</sup> See 82-5-22, 139 (Johns, *op. cit.*, I, No. 372), rev., l. 6. It is interesting to note in this connection that the introductory lines of the reports sent to king Sargon by Ša-Aššur-duppu, the *šaknu* of Tušḫa and eponym of the year 707, include the statement *šulmu ana âlbi-ra-a-ti* (var.: *âlbi-ra-al*) *ana mâti ša šarri bêliia* (see Harper, *op. cit.*, II, Nos. 138 f.; VII, Nos. 704 f.). This shows that the governor of Tušḫa was responsible for the garrisons of Tušḫa and the neighboring fortified towns. (As for further evidence that the governors of the provinces were not merely administrative officers but served also as commanders of the armed forces of their area, see the text quoted above, p. 52, note 209 and cf. the observations of Manitus, *Zeitschrift für Assyriologie* 24, 1910, pp. 109 f.)

<sup>229</sup> See "Annals", col. II, ll. 7 ff.: *nišê*MEŠ *mât Aš-šur an-šâ-te šâ ištu pa-an su-un-qi bu-bu-te a-na šadâni*MEŠ *ni mâtâte*MEŠ *šâ-ni-a-te a-na mât Šub-ri-e e-li-û-ni ú-te-ra-šû-nu ina âlTu-uš-ḫa ú-šâ-aš-bi-su-nu âla šu-a-tú a-na ra-me-ni-a as-bat*.

fortresses free from "native" inhabitants was, in fact, not difficult. For as shown by toponyms of the type represented by <sup>[at]</sup>*Bir-tu ša Sa-ar-ra-gi-ti*<sup>230</sup> and <sup>at</sup>*Bir-tu ša La-ab-ba-na-at*<sup>231</sup> and by letters drawing a distinction between a town as such (*alum*) and its *birtum*, the native towns actually consisted of two parts, viz. the quarter or quarters of the "civilian" population and a fortress. Much evidence to this effect comes now from as early a source material as the correspondence of king Šamši-Adad I and his sons. I mention especially the letter of the later king Išme-Dagan I which deals with *Ia-ab-li-ia*<sup>K1</sup> as well as with the "fortress" (*birtum*) of *Ia-ab-li-ia*<sup>K1232</sup> and a letter of Šamši-Adad in which the king reports the occupation of *Hi-ba-ra-a*<sup>K1</sup>, adding that he captured 3 hundred soldiers of his defeated enemy "in the fortress"<sup>233</sup> and "one son of his"<sup>234</sup> in that town".<sup>235</sup>

On the other hand, it must be emphasized that the colonists sent by the Assyrian kings to the subjected countries were not regular soldiers under orders to live within the walls of fortified towns such as Taidu or Tušḫa but were veterans settled as feudal tenants on crown-land.<sup>236</sup> An important piece of evidence to this effect comes from the concluding words of Aššur-nāšir-apli's reference to "the Assyrian people who hold Aššur's fortresses in the country of Nairi and whom the Aramaeans had oppressed".<sup>237</sup> For in telling us that "he caused" (these people) "to (re)take possession of their ready villages and houses (and) to dwell in peaceful habitations", the king characterizes them as peasants living quietly in hamlets and farm-

<sup>230</sup> See obv., l. 8 of Tiglath-Pileser's "Clay Tablet from Nimrūd" (*II R* 67; Rost, *Die Keilschrifttexte Tiglat-Pileasers III.*, II, Leipzig 1893, pl. 22 f.).

<sup>231</sup> See *ibidem*. As intimated by Rost, *op. cit.*, I, p. 138, it is a legitimate assumption that the locality called "Fortress of Sarragitu" was virtually identical with <sup>at</sup>*Sa-ar-ra-gi-tu*, a town which figures in l. 137 of the "Annals" of Tiglath-Pileser III. With respect to <sup>at</sup>*Birtu ša Labbanât* and <sup>at</sup>*La-ab-ba-na-at* (*K.* 527 [Harper, *op. cit.*, I, No. 32], ll. 8 ff.; cf. 82-5-22, 116 [Harper, *op. cit.*, XI, No. 1102], rev., l. 5) the same opinion was duly advanced by Streck, *Zeitschrift für Assyriologie* 20, 1907, pp. 458 f.

<sup>232</sup> A transliteration and translation of the text was published by Dossin, *Archives royales de Mari*, IV, Paris 1951, No. 81.

<sup>233</sup> I see in *bi-ir-tam* an *accusativus loci*.

<sup>234</sup> Instead of following the transliteration offered by Dossin (*op. cit.*, I, 1950, No. 92), which disagrees with his autography of l. 14, I read *ien*<sup>(1)</sup> *mâr-šu*.

<sup>235</sup> No less significant are lines 5-8 of the letter of an officer in the service of Zimri-Lim (Jean, *Archives royales de Mari*, II, Paris 1950, No. 135) which read as follows: *a-lum I-la-an-šú-ra-a*<sup>K1</sup> *šarrum Ḥa-lí-su-ú-mu ù ša-bu-um ša a-na bi-ir-tim*(!) *be-lí iṭ-ru-dam ša-lim*. (Cf. Oppenheim, *Journal of Near Eastern Studies*, XI, 1952, p. 137.)

<sup>236</sup> Cf. above, p. 50, note 199.

<sup>237</sup> See above, p. 49, note 197.



steads protected by fortifications.<sup>238</sup> It is also significant that the above-cited passage of Aššur-nâšir-apli's "Annals" defines the revolting descendants of Assyrians settled by Shalmaneser I as farmers living "in the land (variant: "in the town") of Ḫal-zi-Lu-ḫa".<sup>239</sup> For, as intimated some years ago by Hildegard Lewy<sup>240</sup>, an examination of the circumstances in which *ḫalšu* occurs in the Nuzi texts shows that *ḫalšu* (> *ḫalzu*) designates especially settlements consisting of farms and hamlets provided with defenses such as towers and fortified houses. Consequently, a *ḫalšu* occupied by farming veterans presents itself as a sort of permanent camp or cantonment well prepared to repel assaults of hostile neighbors. As can be seen from the frequent references to a *ḫalaš* X<sup>KI</sup><sup>241</sup> or a *ḫalzi* <sup>āl</sup>Y<sup>242</sup>, many of these camp-like settlements lay in the vicinity of urban centers.<sup>243</sup> Since, as is indi-

<sup>238</sup> Aššur-nâšir-apli's laconic statement is elucidated, inter alia, by Sargon's report on the annexation of "the wide Kammanu" (*mât Kam-ma-nu rap-šu*; "Annals", ll. 205 and 214 ff. ed. Lie=ll. 179 and 188 ff. of Winckler's edition): "The land of Kammanu I let occupy in its entirety . . . . Feudal service and corvée I imposed upon them; around it I founded 10 mighty fortresses (*āl bi-ra-a-ti dan-na-ti*) and caused its people (*nišê*MEŠ.šú) to dwell in peaceful habitations." We learn here that "dwelling in peaceful habitations" signifies "living under the protection of forts".

<sup>239</sup> Cf. above, p. 49, note 198. There is no doubt that the revolt of Ḫulâia and "the (descendants of the) Assyrian people whom Shalmaneser . . . settled in Ḫalzi-Luḫa" was a rising of malcontent peasants; the fact that Aššur-nâšir-apli put thousands of the insurgents to death (see "Annals", col. I, ll. 106 ff.) makes it likely that in the course of the centuries those colonists had so much increased in numbers that the area originally allotted to them was no longer sufficient to support them.

<sup>240</sup> *Orientalia* II, 1942, pp. 5 ff. and 11 f.

<sup>241</sup> The letters of Šamši-Adad I and his officers mention, inter alia, the grain (*še'um*) of *ḫa-la-aš Tu-ut-tu-ul*<sup>KI</sup> (*Archives royales de Mari*, I, No. 73, l. 7) and a plot of arable land *i-na ḫa-la-aš Ma-ri*<sup>KI</sup> (*ibidem*, V, No. 48, l. 5). An impost in kind (*kudurru*; cf. H. Lewy, *Mélanges Isidore Lévy*, Bruxelles 1955, p. 250 with note 3) of the men (*šâbum*) of the *ḫa-la-aš Qî-ir-da-ḫa-at*<sup>KI</sup> is mentioned in ll. 6 f. of the Çager Pazar tablet, A. 926, published by Gadd, *Iraq* VII, 1940, pl. I.

<sup>242</sup> Cf., for instance, *Assur* 859 (see supra, p. 49, note 196), col. III, l. 3: *ḫal-z* <sup>āl</sup>*Su-u-di* (var.: *ḫal-zi Su-di*; see also *Assur* 10557, obv., l. 43: *ḫal-ša* <sup>āl</sup>*Su-da*). The town of Sûda/u, after which the *ḫal-zi Sûdi* was named, reappears — as <sup>āl</sup>*Šu-u-du* — in col. I(!), l. x+15 of the list K. 4384 (*II R* 53, No. 1; for a transliteration see Forrer, *op. cit.*, pp. 52 f.), whence it follows that it was the capital of a district; cf. Forrer, *op. cit.*, pp. 20 f. who, however, failed to distinguish between Sûdu/Sûdu/Sûda and *ḫalzi Sûdi*, even though the lines 42–45 of the obv. of the treaty between Mattiwaza and Šubbiluliuma left no doubt that <sup>āl</sup>*Ir-ri-di* and *ḫal-zi* <sup>āl</sup>*Ir-ri-di* were not identical. As for the earliest sources relating to *Šu-da-a*<sup>KI</sup> (var.: *Su-da-a*<sup>KI</sup>) and the kinglet who ruled over it in the time of Šamši-Adad I, see Bottéro et Finet, *Archives royales de Mari*, XV, Paris 1954, pp. 135 and 154.

<sup>243</sup> Kupper, *Bulletin de la Classe des Lettres de l'Académie royale de Belgique*, XL, 1954, pp. 577 f. attributes therefore to *ḫalšum* "le sens général de 'circonscription' ". In my opinion, this rendering is not quite adequate because, as noted by Kupper,

cated, inter alia, by the use of *ḫal-šu*<sup>MEŠ</sup> as ideogram for *bîrâte*<sup>244</sup>, *ḫalšu* and *bîrtu* were synonyms, it follows from the data just referred to not only that "the Assyrian people" who since the days of Shalmaneser I held "Aššur's *bîrâte* in the country of Nairi" were actually farmers but also that the conquering Assyrian kings saw in the founding of camp-like settlements of Assyrian farmers a means of maintaining their sway over foreign lands.<sup>245</sup> Nor is there any doubt that, as a rule, these military settlements lay on the most important highways; for the ancient rulers were well aware of the necessity of securing the roads used by their armies<sup>246</sup> as well as by the traders whom they sent to their distant possessions. Delitzsch's view that *ḪA.RA.AN KAL*, the ideogram for *ḫalšu* and *bîrtum*, might signify "Wegbefestigung"<sup>247</sup> is therefore likely to be correct. On the supposi-

*loc. cit.*, p. 573, numerous letters draw a distinction between the *ḫalšum* as such and the major town (*ālum*) after which it was named; cf., e. g., *Archives royales de Mari*, II, No. 82, l. 4 (*a-lum Qa-at-tu-na-an*<sup>KI</sup> *ù ḫa-al-šú-um ša-lim*) and *ibidem*, V, No. 69, ll. 5 f. (*ḫa-al-šú(!) ša-lim a-lu-um ša-lim*). In other words, it appears that *ḫalaš* <sup>X</sup><sup>KI</sup> denotes the rural district outside the town of X, and not the district capital X plus the royal domain in its vicinity. The fragmentary inscription of Adad-narâri I which was published by Bromski, *Rocznik Orientalistyczny* IV, Lwów 1928, pp. 190 ff. leads to the same conclusion. The "Face B" of this text, which can be restored by means of the quasi-duplicate *Assur* 10557 (see above, p. 49, note 196), describes the capture of king Uasašatta of Ḫanigalbat in the following terms: *x*+6<sup>b</sup>*a-na* [*šá-a-šu aššat(?) êkalli-šu*] *x*+7<sup>m</sup>*mârê*<sup>MEŠ</sup>-*šu mârâte*<sup>MEŠ</sup>-*šu* [*ù um-ma-na-te-šu*] *x*+8<sup>iš</sup>-*tu âlIr-ri-di* [*ú-še-ši-su-nu-ti*] *x*+9[*šal*]-*lu-su-nu ka-mu-su-nu* [*ù nam-kur-šu*] *x*+10[*a-n*]*a âli-ia âA-šur ub-la*. As the text continues with the clause [*âlIr-ri-di* *ù âlâni*]<sup>AS</sup>.<sup>AS</sup> *šâ* *x*+11[*ḫal-z*]*i âlIr-ri-di ak-šu*-[*ud aš-ru-up* *ù aq-qur*], it is obvious that the villages in the vicinity of Irridi used to be designated as *ḫal-zi* *âlIr-ri-di*, all the more so since l. 53 of *Assur* 10557 has, instead of [*ḫal-zi*] *âlIr-ri-di*, *pât* (=ZAG) *âlIr-ri-di*.

<sup>244</sup> See Winckler, *Die Keilschrifttexte Sargons*, I, Leipzig 1889, pp. 206 and 210.

<sup>245</sup> Formerly it could not be proved that any of Shalmaneser's predecessors on the Assyrian throne followed the same policy of colonization as Ḫammu-rapi who, as is learned from his correspondence with Šamaš-ḫašir (see Thureau-Dangin, *Revue d'Assyriologie* 21, 1924, pp. 1 ff. and, especially, H. Lewy, *Orientalia* 11, 1942, pp. 9; 211 and *passim*), settled after Rim-Sin's defeat large numbers of Babylonian veterans, craftsmen and workers on crown-land of the annexed kingdom of Larsa. From the letters from Mari it follows now that Šamši-Adad settled in much the same way in the former kingdom of Mari and Tuttul people whom he considered reliable.

<sup>246</sup> This is best shown by the fact that the section of the so-called Chronicle P which records Kadašman-Ḫarbe's successful campaign or campaigns against the tribes of the Syrian desert concludes with a statement to the effect that he built there fortified camps (*âlbi-ra-a-tú*) and, having dug wells, populated them "in order to make the watch(posts) strong"; see col. I, l. *x*+9: *a-na maššartu<sup>u</sup> du-un-nu-nu nišê*<sup>MEŠ</sup> *ina libbi-ši-na a-bur-riš ú-še-šib* and cf. Meissner, *Babylonien und Assyrien*, I, p. 341; H. Lewy, *Mélanges Isidore Lévy*, p. 275.

<sup>247</sup> See his *Sumerisches Glossar*, Leipzig 1914, p. 210.

tion that *bîrtum* goes back to *birtum*<sup>248</sup> and that the latter is a *nomen abstractum* which, as do *wabrum* "foreigner", "guest"<sup>249</sup> and *ubâru* "foreign resident", "emigrant"<sup>250</sup>, belongs to the root *w - b - r* "to sojourn abroad", it can even be suggested that, before becoming a term for "fortress" and "citadel" in the sense of "fortified part of a town", "acropolis", *birtum* denoted a defensible "camp" established near the road by foreigners, nomads, travellers or bivouacking soldiers.

When now surveying our information about the numerous communities referred to as *wubârtum ša Tuḫpia*, *ubârtum ša Ullama* etc. etc.<sup>251</sup> in the documents from Kültepe and Alişar, we have no difficulty

<sup>248</sup> So far as I can see, the opinion that the *i* vowel of *bîrtum* was long is not based upon any cuneiform source but only on the spelling of Aramaic *bîrlâ* and Hebrew *bîrâ*.

<sup>249</sup> On *wabrum* (variants: *wabirum* and *ubrum*) see H. Lewy, *Orientalia* 11, 1942, p. 321, note 1.

<sup>250</sup> That the term *ubâru* signifies "foreign resident" or "resident alien" and that it implies neither condescension nor contempt for the strangers described as *ubârûtu* was shown by H. Lewy, *Orientalia* 11, 1942, pp. 320 ff. on the basis of the texts from Nuzi and Tell-el-Amarna. The sources dealt with by Edel, *Beiträge zur historischen Theologie*, 16, Tübingen 1953, pp. 29 ff. point in the same direction in as much as they designate as *ḫū-ba-ar-tu* "the emigrant" a Hittite princess to be married off to Egypt. If Stamm, *Die akkadische Namengebung*, Leipzig 1939, p. 264 attributes to *ubâru* the signification "metic" in the sense of "Schutzbefohlener" because in his opinion the Old Babylonian personal names of the type *U-bar-dŠamaš*, *U-bar-dNa-bi-um* etc. make sense only on the assumption that "ubârum wie hebr. נָחַר den Fremdling bezeichnet, der zugleich Schutzgenosse eines Vollbürgers (*mâr âli*, s. BKBR S. 42, 41) ist", he overlooks (1) that *gêr* does not always mean "client", (2) that Ethiopic *gôr* signifies "neighbor", (3) that *mâr âli* means "Mitbürger", "fellow-citizen" and not "Vollbürger" and (4) that the passage which he quoted has *ubâru* between *ru'a* "friend" and *tappû* "companion", on the one hand, and *mâr âli*, on the other. These data show that there is nothing to prevent us from attributing to *Ubar-Šamaš* the meaning "Neighbor of Šamaš", "Friend of Šamaš". Hence it is possible to compare this name with the Akkadian name *Šamaš-tappâ'î* and the biblical name רַעוּל and its cognates on which Noth, *Die israelitischen Personennamen*, Stuttgart 1928, pp. 153 f. may be consulted. Against Tallqvist, *Assyrian Personal Names*, Helsingfors 1914, pp. 80 f., the Phoenician names גרעשחר, גרמלקרר, גרבעל (= *mGi-ri-ba'-al*), גרצפן (= *mGi-ri-ša-pu-nu*) etc. can obviously be explained in the same way.

<sup>251</sup> Following is a list of the place names so far known to occur in connection with *wubârtum* (variant: *ubârtum*) ša: Amkuwa (*Gelb* No. 17, 1 f. [see below, p. 61, note 257]; *Gelb* No. 18, 26 f. [see *Archives d'Histoire du Droit Oriental* 11, 1938, p. 128, note 1]), Badna (*KTHahn* 3, 23 f.), Ḥanaknak (*EL* 260, 17 f.), Karaḥna (in the address <sup>1</sup>*a-na kâ-ri-im* <sup>2</sup>*Kâ-ni-iš*<sup>K1</sup> <sup>3</sup>*qî-bi-ma* <sup>4</sup>*um-ma wu-bar-tum* <sup>5</sup>*ša Kâ-ra-aḥ-na-ma* of *MAH* 16580; I am greatly obliged to E. Sollberger for a photo of this small fragment, which I could subsequently inspect at Geneva), Mama (see Bilgiç, *loc. cit.*, pp. 30 and 34; *Bellefen* XVII, No. 65, fig. 36, l. 4), Šalatuwar (*KTHahn*

in discerning certain features from which it appears that these *wubârâtum* or "colonies"<sup>252</sup> were founded in accordance with the principles subsequently observed by Shalmanésér I and Aššur-nāšir-apli in securing their possessions in the country of Nairi. In the first place, it cannot remain unnoticed that the sources mention an *ubârtum ša Zalpa* which, as indicated by its name, lay in the neighborhood of the important town of Zalpa.<sup>253</sup> Since, as was shown before<sup>254</sup>, Zalpa was the seat of a *kârum* and hence a district capital comparable to, say, <sup>ai</sup>*Šu-u-du*<sup>255</sup>, the interrelation between Zalpa and the *ubârtum ša Zalpa* obviously corresponds to that between <sup>ai</sup>*Šûdu* and the aforementioned *ḫalzi* <sup>ai</sup>*Sûdi*. Once this is realized, it does not require much consideration to see that, for instance, the *wubârtum ša Amkuwa* must be distinguished from the "native" town of Amkuwa after which it was named.<sup>256</sup> Hence it is not surprising that the Old Assyrian tablets found in situ at the so-called Alişar Höyük comprised two different classes of legal documents, namely, on the one hand, texts from the

16, 22; cf. *KTP* 10, 3 f.), Šamuḫa (*VAT* 6209, 3 f.; see below, p. 70, note 301), Tuḫpia (*EL* 271, 12 f.), Ullama (*EL* 282 A, 1; B, 1 f.), Wašḫania (ll. 9 f. of an unpublished letter acquired many years ago by O. Krückmann; see also *Gol.* 21, 2 f. and cf. below, p. 70, note 299), Zalpa (*EL* 267, A 13). Whether, with Bilgiç, *loc. cit.*, p. 30, l. 2 of an unpublished letter from Boğazköy can be restored to [*û-bar-t*]im ša Ku-ša-ra seems most uncertain. Whereas I formerly proposed the reading <sup>1</sup>[a-na kâ-ri-im Ḫu-ra-ma] <sup>2</sup>û wa-bar-t]im ša Ku-ša-ra, I now consider it possible that this letter was addressed <sup>1</sup>[a-na ru-ba-im û] <sup>2</sup>[ru-ba-t]im ša Ku-ša-ra; a publication of the fragment is most desirable.

<sup>252</sup> Having abandoned my former reading *wa-ba-ar-tum*, I now see in *wubârtum* / *ubârtum* a collective derived from *ubâru* "resident alien", "emigrant", "neighbor" (see above, p. 59, note 250). Accordingly, I compare *wubârtum* with 'ôreḫâ (plural 'ôreḫôt), "group of travellers", "caravan", *gôlâ*, *îdšēbēl* (Gesenius-Kautzsch, *Hebräische Grammatik*<sup>28</sup>, Leipzig 1909, pp. 411 f.), *sâbilatun* "travellers", *sayyâratun* "a company of persons journeying together" (Wright, *A Grammar of the Arabic Language*<sup>3</sup>, I, Cambridge 1951, p. 233) and those other West-Semitic collectives which, being derived from participles or adjectives by means of the feminine ending, denote homogeneous groups of persons and the like. The view of von Soden, *Grundriss der akkadischen Grammatik*, p. 58, that our term is a noun of the type *parastum* meaning "Handelsamt" is obviously incompatible with the basic meaning of the root *w - b - r*, in consideration of which M. David attributed to *wa/u-ba-ar-tum* the signification "Fremdenniederlassung" as early as 1933 (see *Orientalistische Literaturzeitung* 36, col. 214, note 8).

<sup>253</sup> On the eminent place accorded to Zalpa in the Hittite tradition see J. Lewy, *Orientalistische Literaturzeitung* 26, 1923, col. 542; Hrozný, *Archiv Orientální* I, 1929, p. 290; Sommer, *Hethiter und Hethitisch*, Stuttgart 1947, pp. 5 f.

<sup>254</sup> See above, p. 20, note 85 and p. 37, note 130.

<sup>255</sup> On this town and its history see above, p. 57, note 242.

<sup>256</sup> Note that all the *wubârâtum* so far known were named after towns the names of which are not Assyrian.

southern part of the hill which mention the *wubârtum ša Amkuwa*<sup>257</sup> and, on the other hand, the text No. 49<sup>258</sup> from the northern part which, being concerned only with "natives", refers to the town of Amkuwa (*âlum Amkuwa*) as well as to a "native" ruler, "Anitta, the grand prince".

If one compares the contents of the thousands of Kültepe texts so far published with those of the fifty legal documents and letters from

<sup>257</sup> I refer to the texts *Gelb* Nos. 17 and 18. As I stated in *Archives d'Histoire du Droit Oriental* II, 1938, p. 128, note 1, ll. 26 f. of No. 18 are possibly to be read *wu-ba-[ar-tum]* <sup>27</sup>[a] ša [A-an]-ku(!)-wa. As regards the text No. 17, we conclude from the following data that its first two lines mentioned the same *wubârtum*: (1) As will be seen below, p. 71, note 304, a considerable part of the tablets found in situ on the southern terrace of the Alişar Höyük represents the archive of a certain *Idi-Kubum mêt Uşur-ša-Aššur*. (2) The text No. 17, one of the documents of this archive, can be defined as a typical record of a dispute or proceedings in court which concerned *Idi-Kubum*. This results, on the one hand, from the characteristic wording of ll. 5 ff. (*um-ma ni-nu-ma mî-nam a š[é-e]r 6ru-ba-im Sû-kà-li-a 7[i]š-pu[r]-a-kà um-ma šu-ut-ma*) and, on the other hand, from ll. x+3 ff., which run as follows: [*hu*]râšum a-na sâ-še-er-ti x+4i-tur4-ma I-dî-Ku-bu-[um] x+5lâ ú-ta-šî-ra-ni um-ma x+6šu-ut-ma ú-ba-ar-tum x+7i-ša(!)-a-lâ-ni i-na e(!)-[ra-bi-a-ma] x+8a-ta ħurâšam(?) ta-šu-qa[l um-ma] x+9I-dî-Ku-bu-[um-ma] x+10kašpam lá-dî-n[a-šu]m. [The reading *i-ša(!)-a-lâ-ni* seems to be corroborated by a photograph obligingly placed at my disposal by the late Professor E. Chiera.] (3) From the conciseness of the clause *ubârtum iša'a-lanni* it follows with fair certainty that the beginning of the document indicated which *ubârtum* was involved in this legal matter. Hence there is little doubt that the lacuna preceding <sup>258</sup>*ša A-am-ku-wa* contained the word *ubârtum*. (4) The fact that ll. 4 and 6 mention a "prince" points in the same direction. For the letter *VAT* 6209 (see below, p. 70 with note 301) provides us with evidence that the municipal officers of the local *wubârâtum* took a hand in affairs in which the rulers of the small Anatolian principalities were interested. There are, incidentally, still other letters which show that the Assyrian municipal authorities concerned themselves with legal affairs and business matters of Assyrian merchants which involved the "princes" and their "palaces" or "native" officers presumably in the service of those princes. Thus we learn from *KTHahn* 3 that, being notified of a burglary which had been committed in a *bît wabrî*, "the (representatives of the) *wubârtum ša Badna* went up to the *burullâ* (of Badna)" who, in turn, promised to investigate and to make amends in case the stolen goods should not be recovered. (Cf. *Archives d'Histoire du Droit Oriental* II, 1938, pp. 138 f.) Similar information comes from *VAT* 9222, one of the few letters which mention the city of *Ħattum*. (See *Symbolae Hrozný*, IV, p. 371 and cf. above, p. 6, note 26.) After describing his negotiations with a *kârum* other than that of *Kaniš* (it may have been that of *Ħattuš* of which we know from another unpublished text; see above, p. 45), the writer of this letter, the well-known *Sînêa*, goes on to relate that he wished to obtain a document (*išurtum*) from the local *êkallum* and proposed therefore to "go up with you (plural!) when you go up to the palace"; but in the end he had to report to his correspondent: <sup>30</sup>û šu-nu-ma i-na-zu-mu <sup>31</sup>um-ma šu-nu-ma mî-šu-um i-š-ti-ni <sup>32</sup>e-ta-na-li.

<sup>258</sup> Latest transliteration and translation in *Archives d'Histoire du Droit Oriental* II, 1938, pp. 133 ff.



the Old Assyrian settlement on the southern foot of the Alişar Höyük which we identified with the *wubârtum ša Amkuwa*<sup>259</sup>, he cannot fail to note that, comparatively speaking, the latter refer much more frequently to big and small cattle than the former. There is, in the first place, the afore-mentioned record of proceedings in court, No. 18, according to which two oxen and one lamb were the object of negotiations between Amur-Aššur, the son of Šû-Ištar<sup>260</sup>, and one Tazkul. Moreover, according to the letters 5 and 6, Nabi-Enlil, a businessman residing in the *wubârtum ša Amkuwa*<sup>261</sup>, was asked by an Enna-Aššur,

<sup>259</sup> The correctness of the identification of the Alişar Höyük with Amkuwa, first suggested by me in *Revue Hittite et Asiatique* III, 1934-36, p. 7, leaps to the eye if due cognizance is taken of the fact, just mentioned, that the text No. 49, which deals exclusively with "natives" and refers to *alum Amkuwa* and *Anitta rubâ'um rabî'um*, was found on the northern fringe of the mound, viz. in the plot S0 of the plan published by Gelb, *op. cit.*, p. 9, whereas the fifty texts which concern Assyrians and include references to the *wubârtum* come from its southern terrace. It is hardly possible to attribute this to a mere coincidence. For the fragment No. 1, that much-discussed text from Alişar which mentions together with "Anitta, the prince," only natives and thus exhibits much the same features as No. 49, emerged likewise at some distance from the archives of the Assyrians, namely in the plot HH 9, where it was found not in situ but in refuse layers; see von der Osten, *Discoveries in Anatolia 1930-31*, Chicago 1933, p. 5.

<sup>260</sup> An *Amur-Aššur mēr Šû-Ištar* is also mentioned in ll. 15 f. of the Kültepe text TC 26; although Amur-Aššur and Šû-Ištar were very common names, I expect to show elsewhere that the two texts concern the same person.

<sup>261</sup> That Nabi-Enlil used to live at Amkuwa/Alişar follows with certainty from the fact that one and the same place, the plot M 33 of the afore-mentioned plan, yielded, in addition to three letters addressed to him, the letter Gelb No. 15 which begins as follows: "To Daâa and Šilli-Ea, to 2Daâa say: Thus (spoke) [N]abi-Enlil." As the latter text mentions a trip of Nabi-Enlil to Hattuš where he saw Daâa (see ll. 20<sup>b</sup> ff.: *uš-tù* <sup>21</sup>[. . .] *šu(?) a-na Ħa-[tù-uš a]-li-kam-ma* <sup>22</sup>[i-na] *Ħa-tù-uš a-na-ku ù a-ta ni-na-me-er-ma . . .*), and as a bearer of the rare name *Da-a-a* is the addressee of an Old Assyrian letter unearthed in 1938 at Boğazköy and published in *Archiv für Orientforschung* XII, 1937-1939, p. 397 and in *Mitteilungen der Deutschen Orient-Gesellschaft*, No. 77, 1939, p. 23, it seems not impossible that the few Old Assyrian texts from Hattuš so far known and those from Amkuwa cover much the same years. It is worthwhile stating in this connection (1) that two texts listed by Forrer (*Zeitschrift der Deutschen Morgenländischen Gesellschaft* 76, 1922, p. 186, note 4) among eight Old Assyrian tablets from Boğazköy, namely VAT 6180 (see above, p. 15, note 65) and VAT 7676 = EL 34, likewise mention a *Da-a-a*, and (2) that the two eponyms referred to in these tablets do not so far occur in any Kültepe text. (Note that also the Boğazköy tablet Inv. No. 249/e, which was communicated by Güterbock, *Mitteilungen der Deutschen Orient-Gesellschaft*, No. 74, 1936, pp. 64 f., refers to two eponyms so far not known from other sources! [The assumption of Otten, *ibidem*, No. 87, 1955, p. 24 that the name *Da-a-a* does not occur in the Kültepe texts is contrary to the facts; see CCT 17<sup>a</sup> = EL 181, line 24 and cf. TC III 78, 21; 28; VAT 13533, 23.]) Unfortunately, Forrer's information on those eight tablets — VAT 6180, 6188, 6209, 6211, 6691, 6695, 7674, 7676 — was unreliable: VAT 6695 is not

whose domicile and profession are unknown<sup>262</sup>, to purchase for him, or to assist his messengers and agents in purchasing for him, onions<sup>263</sup> and the product of a tree designated as *allānum*<sup>264</sup>, as well as

Old Assyrian, and at least one other text, viz. VAT 6209 (see below, p. 70, note 301), can hardly have been unearthed at Boğazköy. On the other hand, it appears from some of the personal names found in VAT 6180, VAT 7676 and VAT 7674 that Weidner may have gone too far in his statements in *Boghazköi-Studien* 6, Leipzig 1922, p. 99, note 2, apud J. Lewy in *Reallexikon der Vorgeschichte* VI, Berlin 1926, p. 213 and in *Archiv für Orientforschung* X, 1935–36, p. 180, note 1, in which he categorically declared that none of the tablets enumerated by Forrer came from Boğazköy. For to say nothing of the fact that these statements are somewhat contradictory, they are not borne out by Winckler's laconic report on his inspection of the Kültepe to which Weidner refers. The confusion is all the worse since a text not listed by Forrer, namely VAT 6203, figures in *Mitteilungen der Deutschen Oriental-Gesellschaft*, No. 70, 1932, p. 28 as a "Tafel vom Kültepe-Typ, angeblich von H. Winckler in Boğazköy gefunden" and as a specimen of a Kültepe tablet selected "aufs Geratewohl". (For reasons unknown to me, this latter tablet was not shown to me in 1926 when I studied the Kültepe texts of the Berlin Museum including most of the disputed texts contained in Forrer's list.) Incidentally, the doubts expressed by Ehelolf (*ibidem*, p. 28) as to the Old Assyrian character of the fragment found in Boğazköy in 1931 (*B* 30; *loc. cit.*, p. 28, fig. 13) were unjustified. The piece exhibits much the same features as a fragment of similar size a photo of which was transmitted to me by the late Professor E. Chiera together with the photos of the Alişar tablets subsequently published by Gelb. This Alişar fragment (photo 19961, negative 11163 of the Oriental Institute of Chicago), which I fail to find in Gelb's publication, is unquestionably Old Assyrian.

<sup>262</sup> According to No. 5, ll. 2<sup>b</sup> f. ("In 5 days I shall go to Zalpa") and No. 6, ll. 2<sup>b</sup> f. ("I am well; I am back from Zalpa"), his activities included trips to Zalpa. Lines 9–25<sup>a</sup> of No. 5, for which I refer to my annotated transliteration and translation in *Archives d'Histoire du Droit Oriental* II, 1938, pp. 128 ff., indicate that he had contacts with the *êkallum* of Šalahšuwa.

<sup>263</sup> See No. 6, ll. 13 f.: *šu-um-ki ú šu-ḫu-[l]i-ni* <sup>14</sup>[šé-b]i<sub>4</sub>-lam. For *šumkû*, which we identify with Syriac *šamkê* "cepaes" (Brockelmann, *Lexicon Syriacum*<sup>2</sup>, p. 786), see KTS 52<sup>a</sup>, 20 (*x šiqli a-na šu-um-[ki] ú akālim* "x shekels for onions and bread") and TC III 237, 7 ff. (*i-na ša-tim i-na ḫa-ar-pi* <sup>8</sup>1/2 *manā'em 3 šiqli kaspaṃ* <sup>9</sup>i-ša-qú-lu *ú kà-ar-pá-at* <sup>10</sup>*šu-um-ki i-du-nu*). Note that BIN IV 162, 13 f. has 2 *karpāt ar-bi<sub>4</sub>-im šu-um-ki* "2 jars of dried vegetables(?), (namely) onions" in a passage in which the parallel memoranda Gelb No. 55 (l. 9) and Hrozný, *V řiši pŕlměsíce* (Praha 1927), p. 70 (l. 10) have 2 *karpāt šu-um-ku* and cf. the occurrence of 10 *karpāt* (!) *ar-bi-e gi<sub>5</sub>-ra-ṇ[i]* (?) in l. 14 of the unpublished text Giessen 3–5.

<sup>264</sup> See No. 5, ll. 4<sup>b</sup> ff.: *a-ma-kam a-lá-ni lu . . .* <sup>6</sup>lu 10 *qa lu 5 qa lu 3 qa a-šar i-ba-ši-ú* <sup>6</sup>li-qí-ma *šé-bi<sub>4</sub>-lam* "There <sup>6</sup>buy and send me <sup>4</sup>*allānū*, either . . . <sup>5</sup>or 10 qa, or 5 qa or 3 qa, wherever they are (obtainable)". As I noted in *Journal of the American Oriental Society* 58, 1938, pp. 454 f., references to this product of the *allānu* tree are also found in the Kültepe texts BIN IV 160, TC 97, TC II 62 and TC III 209 as well as in one of the Old Assyrian texts from Nuzi. I then attributed to *allānu* the signification "terebinthine", "turpentine". But in the light of the observations of Thompson, *A Dictionary of Assyrian Botany*, London 1949, pp. 270 f. it seems possible

"sheep"<sup>265</sup> and "fat rams", which he needed because he "had no meat".<sup>266</sup> Hence it is logical to assume that Nabi-Enlil lived among a farming population which, in addition to producing vegetables, reared the small cattle ordered by Enna-Aššur. There is, in fact, evidence that Nabi-Enlil bought small cattle from bearers of Assyrian names.<sup>267</sup> The Ališar tablets leave therefore little doubt that the *wubârtum* ša Amkuwa was, above all, a settlement of Assyrian farmers.

It is further significant that, whenever it is possible to determine the approximate location of a "native" town after which a *wubârtum* was named, the "native" town turns out to have been situated on one of the much-frequented highways linking the district capitals which were seats of a *kârum* with each other or with Kaniš. Thus Mama is known to have been a place on the caravan road from Uršu to Kaniš.<sup>268</sup> Whereas Ullama and Wašḥania were stations on the highway from Buruḥaddum to Kaniš<sup>269</sup>, Šalatuwar lay on the main-road from Waḥšušana to Buruḥaddum.<sup>270</sup> Tuḥpia, in turn, seems to have been a station on an important road which linked Zalpa and Durḥumid with Kaniš.<sup>271</sup> Amkuwa, finally, can be placed with

that the term denotes that sort of manna which comes from the dwarf oak. (If so, the words *a(?)-lá-ni ir-bi* (Gelb No. 6, l. 5) may mean "my (provisions of) manna increased", and not "*E(?)-lá-lí* is grown up", as assumed in *Journal of the American Oriental Society* 57, 1937, p. 437.) That *allânû* means "acorns" is, in my opinion, less likely.

<sup>265</sup> See the closing lines of No. 6, in which one *Zu-ra-a*, to all appearances an employee of Enna-Aššur's, is given the following instructions: *šu-ma a-na ši-mi-im <ša> <sup>19</sup>e-me-ri i-sá-ḫi-ú-ni-ku <sup>20</sup>e-me-ri ki-i <sup>10</sup>iš-ra-at <sup>21</sup>šé-bi<sub>4</sub>-lam* "If <sup>19</sup>they are going to oppose thee <sup>18</sup>in respect to the price <of> <sup>19</sup>the sheep, <sup>21</sup>send me <sup>20</sup>(only) as few as ten sheep."

<sup>266</sup> See No. 5, ll. 7b f. (*2 e-tù-dí <sup>8</sup>kà-áb-ru-tí šé-bi<sub>4</sub>-lam šé-ra-am lá i-šu*) and cf. No. 6, ll. 9 ff.: [*2 e-tù-dí-e damqûtim<sup>im</sup> <sup>10</sup>[li]-il<sub>5</sub>-qí-ma lu-šé-bi<sub>4</sub>-lam <sup>11</sup>[ù a-t]a(!) 2 e-tù-dí <sup>12</sup>[damqûtim<sup>im</sup> li-qí-ma <sup>13</sup>[šé-bi<sub>4</sub>]-lam <sup>14</sup>[Let] him buy <sup>9</sup>[2] nice rams <sup>10</sup>and let him send (them) to me; <sup>11</sup>[yo]u, [too], <sup>12</sup>buy <sup>12</sup>[nic]e <sup>11</sup>rams <sup>12</sup>and <sup>13</sup>[se]nd (them) to me.*]

<sup>267</sup> I refer especially to ll. 4-6a of the memorandum, Gelb No. 34, according to which an Ala[b]um or Ala[h]um received 40 shekels as "price of the lambs". Cf. further the payments to Kukkulânum and Adad-nâšir which figure in No. 31.

<sup>268</sup> See *Orientalia* 21, 1952, pp. 288 ff.

<sup>269</sup> As for the details see pp. 13 f. of the article quoted above, p. 18, note 76.

<sup>270</sup> See *ibidem*, p. 14.

<sup>271</sup> According to an unpublished letter (VAT 13525), a man en route to Kaniš met at Tuḥpia messengers who came from Kaniš. From CCT III 1, a letter addressed by Amur-Ištar, a resident of Durḥumid (see *ICK* 187, 47 and cf. *CCT* III 1, 5), to Imdi-ilum, who used to live at Kaniš, it is learned that the latter was to receive at Tuḥpia a shipment of copper dispatched by the former from Durḥumid. On the

some confidence on a highway which connected Ḫattuš with Durḫumid.<sup>272</sup>

In defining the *wubârâtum* and *kârû* of Asia Minor as settlements organized by an empire builder who transferred subjects of his to Anatolia and set up an Assyrian viceroy in Halys Assyria<sup>273</sup>, we are supported by a number of official letters which make it very clear that the magistrates at the capital of Halys Assyria received their orders from the Assyrian metropolis on the Tigris and were supervised by officers from the city of Aššur. Perhaps the most instructive of these documents is the letter *TC* 1 referred to above, p. 40<sup>274</sup>. As was first observed by Landsberger<sup>275</sup>, this unique letter is a report which the *kârum* Kaniš received from its representatives at Aššur.<sup>276</sup> It opens (in ll. 4–6) with the statement that, in order to cover expenditures

other hand, it follows from the Hittite texts discussed by Götze, *Revue Hittite et Asiatique* I, 1930–32, pp. 18 ff. that the Hittite kings came through Tuḫpia/Tuḫup-pia when traveling from Zalpa/Zalpuwa to Matila.

<sup>272</sup> Thus if we combine the data furnished by *VAT* 13005 (*Keilschrifttexte aus Boghazköi*, IV, No. 13) and *Bo* 2626 (*Keilschrifturkunden aus Boghazköi*, XXV, No. 28). Whereas the former text mentions the gods of URUAn-ku-wa immediately before those of URUTúr-mi-it-ta and URUTu-ḫu-pí-ia (obv., col. I, ll. x+22 f.; cf. Götze, *loc. cit.*, p. 21), the latter defines Ankuwa as the third station on a road which began at Ḫattušaš; cf. *Gelb, op. cit.*, p. 10; Bilgiç, *loc. cit.* (see *supra*, p. 20, note 86), p. 30. (The identity of Turmitta and Durḫumid, tentatively assumed by Landsberger, *Zeitschrift für Assyriologie* 35, 1924, p. 224, note 4, becomes manifest when comparing the above-cited letter *CCT* III 1, which mentions Tuḫpia and Durḫumid, with col. I, x+22 of *VAT* 13005 or with col. II, ll. 10 f. of *Bo* 2026, as restored by Götze, *Ḫattušiliš*, Leipzig 1925, p. 14.)

<sup>273</sup> As was intimated above, p. 53, the Assyrian penetration of Anatolia must have begun prior to the period covered by the bulk of the Kültepe texts so far available. This follows, above all, from the fact that, during this period, the Assyrian population of Kaniš saw in Halys Assyria “the land par excellence” (see above, p. 13). The religious syncretism which manifests itself in the participation of the Assyrians in the worship of Anna (see above, p. 11 with note 47) and the numerous cases of intermarriage between “natives” and their fellow-citizens of Assyrian extraction (see above, p. 15, note 65) point, of course, in the same direction. It involves therefore a misleading anachronism if some savants call the upper strata of the unearthed part of Kaniš “the city of the colonists” and define without discrimination as “colonists” all Assyrians whose records have been found at Kültepe, Alişar and Boğazköy.

<sup>274</sup> On the basis of a collation which, thanks to J. Nougayrol's kindness, I could, at long last, do in June 1955, it is possible to state that lines 28–32<sup>a</sup> of *TC* 1 read as follows: *ṭup-pá-am ša ru-ba-im* <sup>29</sup>*kâ-ar kâ-ar-ma* <sup>30</sup>[ša]-*áš-me-a-ma* <sup>31</sup>[*kašpam*]  
<sup>32</sup>*i-iš-qu-lu*.

<sup>275</sup> *Loc. cit.*, p. 224.

<sup>276</sup> A free translation of lines 1–27 and 32<sup>b</sup>–34 of *TC* 1 was published by Landsberger in *Der Alte Orient*, 24, 4 (Leipzig 1925), p. 10. For ll. 28–32<sup>a</sup> see presently and cf. above, note 274.

for some sort of fortification<sup>277</sup>, "the city" (*âlum*) "imposed upon you" a payment of ten minas of silver; after mentioning (in ll. 7-15) that only their plea to save the *kârum Kaniš* an unnecessary expenditure of another mina of silver prevented the elders<sup>278</sup> from transmitting their pertinent order to Kaniš through a special messenger whose travelling expenses would have been charged at Aššur to the account of the *kârum*<sup>279</sup>, the writers of the letter insist upon immediate transfer to Aššur of the ten minas because any delay would expose them to reproach by the elders (ll. 16-22). Then they show the *kârum Kaniš* how to obtain those ten minas: "In accordance with <sup>25</sup>the tablet of the city <sup>26</sup>dispatch (messengers) and <sup>27</sup>cause <sup>26</sup>the *kârû*<sup>280</sup> <sup>27</sup>to pay the

<sup>277</sup> *dûrum*<sup>KI</sup>. Since it now seems that the period covered by the Kültepe texts comprises the reign of Irišum I and quite possibly that of his father, Ilušumma, it is in order to raise the question as to the identity of this *dûrum*<sup>KI</sup> with the *dûrum*<sup>KI</sup> *eššum* the construction of which is recorded by Ilušumma in ll. 24 ff. of the brick inscription Z 21 and duplicates published and discussed by Weidner, ZA 43, 1936, pp. 114 ff. But cf. also ll. 39<sup>b</sup> ff. of the stone inscription Assur 16850 (KAH II 11; AOB, I, pp. 12 ff. sub 7), according to which Irišum I seems to have doubled the height of the same *dûrum*, and ll. 5 ff. of Assur 2764 (KAH I 63; AOB, I, pp. 34 ff. sub XIV), according to which the old wall first erected by Kikia was rebuilt by Ikûnum and Šarrum-kên.

<sup>278</sup> As is well known from the Old Babylonian sources, "the elders" (*šibâtum*) was a designation of the notables who formed a kind of city council. The letter here under discussion reveals therefore that the capital city on the Tigris which figures as "my city" in the building inscriptions of many an Old Assyrian *išši'akkum* possessed to some degree the right of self-government. Gol. 14, a somewhat damaged letter which Šû-Ištar addressed to three well-known citizens of Kaniš, leaves no doubt that the analogous conclusion must be drawn with regard to the capital of Halys Assyria. For after stating that a "tablet of the *kârum*" arrived at the town where he was staying and that he took cognizance of its contents (ll. 6<sup>b</sup> ff.; see also l. 21 and cf. the mention of Kaniš in l. 34), Šû-Ištar relates a conversation which he opened with the words "the elders sent me a message" (see ll. 25 f.: *um-ma a-na-ku-ma šî-bu-tum* <sup>26</sup>*iš-pu-ru-nim*; as for the preceding [*wa-a*](*!*)-*ki-ta*(*!*)-*ma* <sup>24</sup>[*a-n*]*a rabi* [*šî-ki*]-*tî-im e-li-ma* . . . , see above, p. 46, note 173).

<sup>279</sup> That this is the sense of ll. 9 ff. (*ni-nu a-na šî-bu-tim* <sup>10</sup>*nu-ša-li-ma um-ma* <sup>11</sup>*ni-nu-ma šî-ip-ra-am* <sup>12</sup>*lâ ta-ša-pâ-ra-ma* <sup>13</sup>[*kašp*]*am* <sup>1</sup>*mand'am* <sup>14</sup>[*gám-r*]*a-am kâ-ru-um* <sup>15</sup>[*lâ*] *i-lâ-pâ-at*) is obvious because the letter concludes with a warning in which mention is made of the possibility of taking the 10 minas "here", i. e. in Aššur, "from your money"; see ll. 32<sup>b</sup>ff.: *šu-ma lâ ta-ši-da-[ma]* <sup>33</sup>*kašpam lâ tù-šê-bi-lâ-nim a-na-kam-ma* <sup>34</sup>*i-na kašpî-ku-nu ni-lâ-qî*.

<sup>280</sup> I. e. the *kârû* other than Kaniš. Apart from Kaniš, the following ten towns figure as seats of a *kârum* in the Old Assyrian sources so far available: Burušhaddum, Durhumid, Haḥḥum, Ḥattuš, Ḥurrama, Niḥria, Tawinia (see above, p. 45, note 170), Uršu, Waḥšušana and Zalpa. On the supposition that, with the exception of the *kârum Niḥria*, which lay outside Anatolia, all these *kârû* received instructions



silver! <sup>30</sup>[C]ause <sup>29</sup>each *kârum* <sup>30</sup>to read<sup>281</sup> <sup>28</sup>the tablet of the prince<sup>282</sup> <sup>30</sup>in order that <sup>32</sup>they pay <sup>31</sup>[the silver]!" In addition to making it clear beyond doubt that the capital city of Halys Assyria was tributary to the king of Aššur, *TC* 1 reveals therefore that decrees issued at Aššur concerned the levying of taxes in those other major towns of Asia Minor which, likewise being settled with Assyrians, had become flourishing centers of trade hardly less important than Kaniš. This being so, we are not, of course, surprised to learn from the instructions transmitted to the *šâqil ʔa'tim*<sup>283</sup> *u bîruttum ša Šalatuar*<sup>284</sup> in the official

from the *kârum* Kaniš and through the latter from the city of Aššur, it would appear that each *kârum* was ordered to contribute one mina of silver to the "expenses for the *dûrum*<sup>KI</sup>". (The assertion of Landsberger, *Belleten* 10, 1939, p. 214 that Neša was "Sitz eines karum" is not borne out by any of the texts so far published.)

<sup>281</sup> Lit., "to hear".

<sup>282</sup> This *ṭuppum ša rubâ'im* was certainly identical with the *ṭuppum ša âlim* mentioned in l. 25 of our letter. Evidence to this effect comes, above all, from the case-tablet *EL* 327 already referred to above, p. 26, note 109 (see also below, p. 78). As will be recalled, the subject of this much-discussed document is a decision of the magistrates in the city of Aššur (*dîn âlim*) which authorized a certain Kukkuânûm to send an attorney (*râbišum*) to Cappadocia and directed the *kârum* to cooperate with this *râbišum* (see *EL* II, p. 101, note b and cf. further *ibidem*, p. 89, note d, where it is shown that — if not always, at least in certain instances — the *râbišum* carried with him to Kaniš the decree authorizing him to go to Cappadocia and to act there in accordance with his instructions). As *EL* 327 was sealed with the seal of Šarrum-kên, the *išši'akkum* of Aššur (thus! see below, p. 78, note 332), it can be inferred that decisions of the magistrates in Aššur which contained instructions for the *kârum* were rendered in the name of the *rubâ'um* of Aššur and are therefore likely to have been called *ṭuppum ša rubâ'im*. (For the occurrence of the fuller expression *ṭuppum ša âlim u rubâ'im* see *EL* II, p. 89, note d in fine.) That this was actually so follows, *inter alia*, from *TC* III 1; for the writers of this letter inform its addressee that, in case he did not comply with their requests, they would dispatch a "tablet of the prince and a *râbišum*" (see ll. 30 ff.: *š-u-ma la ki-a-am* <sup>31</sup>*ṭup-pâ-am ša ru-ba-im* <sup>32</sup>*u râbišam* <sup>33</sup>*ni-ša-pâr-ma i kâ-ri-im nu-ba-âš-kâ*). See also *EL* II, p. 76, note d.

<sup>283</sup> Since it is hardly too daring to attribute to *šaqâlum* "to weigh", "to weigh out", the meaning "to weigh once more", "to verify by weighing again", I see in the *šâqil ʔa'tim* the revenue-officer who examined the weight of the cash payments received from persons liable to pay taxes.

<sup>284</sup> As the Kültepe texts use *bî'ârum* in the sense of "to choose", "to select" (see *EL* II, p. 40, note d), it seems possible that the *bîruttum* (<*bîrâtum*) were "elected" magistrates representing the *wubârtum* in which they lived in certain dealings with its superiors, i. e. with the *kârum* under which the *wubârtum* was placed. That, to judge by the texts to be quoted presently, the *wubârtum ša Šalatuar* (see above, p. 59, note 251) was under the jurisdiction of the *kârum* *Waḥšušana* is in perfect agreement with the geographic data discussed in pp. 13 ff. of the *Halil Edhem Memorial Volume*. (See also above, p. 20, note 86.)

letters *TuM* I 1<sup>a285</sup>, *TC* 32<sup>286</sup> and *KTP* 12<sup>287</sup> that fees and tolls such as the *šaddu'atum*<sup>288</sup> and the road tax designated sometimes as *ta'tum ša ḥarrānim*<sup>289</sup> and at other times as *ta'tum*<sup>290</sup> accrued to the *kārum Kaniš*, no matter whether they were collected by the authorities of the *wubartum ša Šalatuar*<sup>291</sup> or by the *kārum Waḥšušana*.<sup>292</sup> Unnecessary to add that these data (which are supplemented, inter alia, by the

<sup>285</sup> *TuM* I 1<sup>a</sup> runs as follows: <sup>1</sup>*um-ma kà-ru-um* <sup>2</sup>*Wa-aḥ-šu-ša-na-ma* <sup>3</sup>*a-na ša-qí-il*<sub>5</sub> *ta-[im]* <sup>4</sup>*bi-ru-tim* <sup>5</sup>*ša Ša-lá-tù-a[r]* <sup>6</sup>*qí-bi-ma a-na-kam* <sup>7</sup>*15 manā'ē eri'am* <sup>8</sup>*ma-si-am* <sup>9</sup>*ša eri'i-šu* <sup>10</sup>*1 šiglam kaspam* <sup>11</sup>*bi-ri-qá-ni-šu A-š[ūr- . . .]* <sup>12</sup>*i-dí-ni-a-tí a-ma-kam* <sup>13</sup>*šu-ma watram mī-ma* <sup>14</sup>*uš-té-ba-al* <sup>15</sup>*ša-dí-a-šu-ma* <sup>16</sup>*ku-un-kà-ma* <sup>17</sup>*šé-bi-lá-nim*.

<sup>286</sup> This is a transliteration of *TC* 32: <sup>1</sup>*um-ma ší-ip-ru* <sup>2</sup>*ša kà-ri-im Kà-ni-š* <sup>3</sup>*kà-ru-um Wa-aḥ-šu-ša-na* <sup>4</sup>*a-na ša-qí-il*<sub>6</sub> *ta-tim* <sup>5</sup>*bi-ru-tim* <sup>6</sup>*ša Ša-lá-tù-ar* <sup>7</sup>*qí-bi-ma* <sup>8</sup>*2 šiglin* <sup>9</sup>*kaspam* <sup>10</sup>*2 manā'ēn* <sup>11</sup>*eri'am dammuqam* <sup>12</sup>*ša-du-a-sú* <sup>13</sup>*ša A-lá-bu-u[m]* <sup>14</sup>*mēr Šarra-d* <sup>15</sup>*[dad]* <sup>16</sup>*i-dí-a-ku-nu-tí-[ni]* <sup>17</sup>*a-ma-kam kaspam* <sup>18</sup>*[ú]* <sup>19</sup>*eri'am a-na* <sup>20</sup>*[š]* <sup>21</sup>*ki-ma A-lá-bi-im* <sup>22</sup>*[t]a-e-ra*.

<sup>287</sup> The well-preserved part of *KTP* 12 reads as follows: <sup>1</sup>*um-ma kà-ru-um* <sup>2</sup>*Wa-aḥ-šu-ša-na-ma* <sup>3</sup>*a-na ša-qí-il*<sub>5</sub> *ta-tim* <sup>4</sup>*bi-ru-tim qí-bi-ma* <sup>5</sup>*Šarra-Sin*<sup>in</sup> <sup>6</sup>*ša-du-a-sú a-na-kam* <sup>7</sup>*i-dí* <sup>8</sup>*[a-m]a-kam* <sup>9</sup>*[. . . . .]* <sup>10</sup>*[. . . . .]* The fact that *bi-ru-tim* (l. 4) is not followed by *ša* and a place name is obviously due to negligence of the scribe.

<sup>288</sup> See *KTP* 12, 5 ff.: “*Šarra-Sin* <sup>7</sup>paid (lit., “deposited”) <sup>8</sup>here [i. e. at *Waḥšušana*] his fee.”

<sup>289</sup> Thus in the concluding lines of an unpublished letter in the Rosenberg Collection which run as follows: <sup>29</sup>*emārum a-na* <sup>30</sup>*maṭi* <sup>31</sup>*1 manā'ē* <sup>32</sup>*eri'im ta-dí-in ina libbišu* <sup>33</sup>*lu ta-tum ša ḥa-ra-nim* <sup>34</sup>*lu ú-ku-ul-tí emārim lu ú-ku-ul-tí* <sup>35</sup>*Rabi-A-šur* <sup>36</sup>*à ša bi-il-šé-tí-kà* <sup>37</sup>*a-lá-qí a* <sup>38</sup>*šu-mi kaspim* <sup>39</sup>*ša E-dí-na-a Rabi-A-šur* <sup>40</sup>*ak-lá*. (As for the imposition of a road tax for a donkey, see also *Gelb* No. 54, 5 f.: <sup>1</sup>*3 šiglī annakam ta(!)-at e-ma-ri-šu* <sup>2</sup>*i-na Uš-ḥa-ni-a-ma dš-qúl*.) See also *KTS* 29<sup>b</sup>, 18 f.: <sup>1</sup>*a ta-tim* <sup>2</sup>*ša ḥa-ra-ni-šu*.

<sup>290</sup> As for evidence that the *ta'tum* imposed upon travellers and caravans was determined in accordance with the distances they covered on their journeys, see *KTHahn*, pp. 32 f. and cf. further *BIN* VI 79, 7 ff. On the significant fact that *Tukulti-Ninurta* I describes himself as “the prince (*rubū*) who receives the *ta'tum*” of the countries he had subjected see *KTHahn*, p. 33.

<sup>291</sup> See *TC* 32, 7 ff.: “(As for) the 2 shekels of <sup>8</sup>silver and the 2 minas <sup>9</sup>of fine copper, [his] fee, <sup>10</sup>which *Al(i)-abum*, <sup>11</sup>the son of *Šarra-A[dad]*, <sup>12</sup>paid (lit., “deposited”) <sup>13</sup>yo[u], <sup>14</sup>[r]eturn <sup>15</sup>there (i. e. at *Šalatuar*) the silver <sup>16</sup>[and] the copper to <sup>17</sup>*Al(i)-abum's* [r]epresentatives!” Cf. further *TuM* I 1<sup>a</sup>, 12<sup>b</sup>–17.

<sup>292</sup> See *TuM* I, 1<sup>a</sup>, 6<sup>b</sup>–12<sup>a</sup>. That the *kārum Waḥšušana* acted on behalf of the *kārum Kaniš* when issuing the instructions here under discussion follows in the instance of *TC* 32 directly from the reference in ll. 1 f. to “the envoys of the *kārum Kaniš*”. As regards *TuM* I 1<sup>a</sup> and *KTP* 12, it results from the fact that these letters were found at *Kaniš*. In other words, *TuM* I 1<sup>a</sup> and *KTP* 12 are copies, submitted by the *kārum Waḥšušana* to its superiors at *Kaniš*, of the original letters which had been dispatched from *Waḥšušana* to *Šalatuar*.

damaged letters *TC* II 26<sup>293</sup> and *BIN* VI 101<sup>294</sup>) prove once more the correctness of our previous conclusion as to Kaniš being the capital city of Halys Assyria.

The reference in *TC* I to the issuance by the authorities at Aššur of a directive empowering the *kârum* Kaniš to exact from "the *kârû*" contributions in favor of "the city" tallies with allusions, for the greater part found in the introductory lines of official letters such as *BIN* VI 120<sup>295</sup>, *TC* 40<sup>296</sup>, *KTP* 14<sup>297</sup>, *Chantre* 11<sup>298</sup> and *Gol.* 21<sup>299</sup>, to "envoys

<sup>293</sup> In the beginning of this letter one Puzur-Aššur reports to Innâa, the above-mentioned influential citizen of Kaniš, a controversy concerning a fee (see l. 4: *šaddu'itû* "my fee") due to the *kârum* Kaniš (see ll. 6 f.: *šaddu'atum ša kârim Kaniš*). According to ll. 2<sup>b</sup>-5<sup>a</sup>, Puzur-Aššur paid at the place from which he reported to the local *bît kârim* a *šaddu'atum* amounting to 1/60 (scil. of the value of the goods with which he was en route). But the officers concerned declared him liable to a payment of 3/60 (ll. 5<sup>b</sup>-7<sup>a</sup>), his plea that he was traveling to Kaniš and would pay there being of no avail (ll. 7<sup>b</sup>-10<sup>a</sup>).

<sup>294</sup> In this text a *kârum* the name of which is lost is being rebuked by the *kârum* Kaniš (1) for its intention to collect fees due to the *kârum* Kaniš from a "gentleman" (*awilum*) who was present at Kaniš and whose merchandise was consigned to a "licensed merchant" (*tamkarum*) supposed to pay the road tax at Kaniš and (2) for its attempt to find out the name of the consignee of the merchandise. To judge by the remnants of lines 17<sup>b</sup> ff., the actions of which the *kârum* Kaniš disapproved sprang from an unsettled legal affair involving claims of the "gentleman" against that unknown *kârum* and the latter's counter-claims. In other words, it would appear that the municipal authorities of Kaniš considered unlawful the attempt to collect fees due to the *kârum* Kaniš merely for the purpose of pressing claims with which Kaniš was not concerned. For the reader's convenience I add a transliteration and translation of the fairly well-preserved lines 1-17<sup>a</sup>: <sup>1</sup>*um-ma kâ-[ru-um]* <sup>2</sup>*Kâ-ni-iš-[ma a-na]* <sup>3</sup>*kâ-ri-im* [. . . . .] <sup>4</sup>*qî-bi-ma mî-[šu]* <sup>5</sup>*ša i-nu-mî š[a-du-a-tám]* <sup>6</sup>*ša kâ-ri-im Kâ-[ni-iš]* <sup>7</sup>*tû-ša-da-a-ni* <sup>8</sup>*ma a-wi-lum i Kâ-[ni-iš]* <sup>9</sup>*um-ma šu-ul-ma lu-qu-tum* <sup>10</sup>*ša tamkarim tamkarum* <sup>11</sup>*na Kâ-ni-iš* <sup>12</sup>*ta-tám i-ša-[gal]* <sup>13</sup>*um-ma a-t[û-n]u-ma* <sup>14</sup>*šu-mî tamkarim* <sup>15</sup>*z[u-ku-ur]* <sup>16</sup>*mî-ma šu-mî tam[karim]* <sup>17</sup>*be-el lu-qu-tim* <sup>17a</sup>*la i-za-kâr* <sup>1</sup>Thus (spoke) the *kâ[rum]* <sup>2</sup>Kaniš: [to] <sup>3</sup>the *kârum* [. . . . .] <sup>4</sup>say: Wh[y (is it)] <sup>5</sup>that, at the time when <sup>7</sup>you are about to cause the payment (lit., "depositing") of <sup>6</sup>the flee] <sup>6</sup>of the *kârum* *Ka[niš]*, <sup>8</sup>the gentleman is at *Ka[niš]*? <sup>9</sup>Thus he (said): "The merchandise <sup>10</sup>belongs to a licensed merchant! The licensed merchant <sup>12</sup>will pay] the road tax <sup>11</sup>at Kaniš!" <sup>13</sup>Thus you (said): "<sup>14</sup>I[ndicate] (lit., "p[ronounce]") the licensed merchant's name!" <sup>16</sup>The holder of the merchandise <sup>17</sup>shall not <sup>15</sup>at all<sup>17</sup>indicate <sup>16</sup>the licensed mer[chant's] name!

<sup>295</sup> *BIN* VI 120 begins as follows: <sup>1</sup>*um-ma šî-ip-ru-û* <sup>2</sup>*ša a-lim<sup>KI</sup> û* <sup>3</sup>*kâ-ru-um Kâ-ni-iš<sup>KI</sup>-ma* <sup>4</sup>*a-na kâ-ar kâ-ar-ma* <sup>5</sup>*qî-bi-ma*. Whether the badly damaged text *TC* 142 belongs to the same group of official letters is doubtful, although a collation done by me in 1932 showed that the extant part of its reverse (sic) reads as follows: <sup>x+1</sup>[. . . . .] <sup>1</sup>*ša(!)* [. . . . .] <sup>x+2</sup>*a-na a-w[a-tim]* <sup>x+3</sup>*a-ni-a-tim* <sup>x+4</sup>*a-na a-lim<sup>KI</sup>* <sup>x+5</sup>*i* . . . . . <sup>1</sup>*ni* <sup>x+6</sup>*û* . . . . . <sup>x+7</sup>*up-pu-[um]* <sup>1</sup>*a-ni-u[m]* <sup>x+8</sup>*a-na* . . . . . <sup>1</sup>*a-im* <sup>x+9</sup>*ba-al-ki-i[t]* <sup>x+10</sup>*a-wa(!)-at(!)* <sup>1</sup>*up-pi-im* <sup>x+11</sup>*a-nim* . . . . . <sup>x+12</sup>*i-na kâ-ar kâ-[ar-ma]* <sup>x+13</sup>*me-eḫ-ra(!)-a[m ša]* <sup>x+14</sup>*up-pi-im*.

<sup>296</sup> The fragment *TC* 40, an instruction to messengers dispatched to another

of the city" who, to judge by the contents of the same letters, controlled and advised the municipal authorities of Kaniš in legal and administrative matters. The proceedings in court, *Gelb* No. 57 show these "envoys of the city" in action at Kaniš<sup>300</sup>. But from other texts it results that, usually in concert with the *kârum Kaniš*, they exerted their authority all over Halys Assyria. Of particular interest in this respect is VAT 6209, a somewhat damaged letter in which the *wubâr-tum ša Šamuḫa* tells "the envoys of the city and the *kârum Kaniš*" how a difference with the local prince was settled<sup>301</sup>; for the characteristic "here, with regard to the matter of the donkeys which the palace seized" (ll. 4<sup>b</sup>-6) and the subsequent mention of "your messengers"<sup>302</sup> make it clear that, before accomplishing the release of sixteen and a half talents of lead and three donkeys (ll. x+2 ff.), the municipal officers at Šamuḫa dispatched a report to Kaniš, whereupon they received instructions how to proceed.<sup>303</sup> No less significant are the

town, starts as follows: *um-ma šî-ip-ru ša a-lim<sup>KI</sup> 2ù kâ-ru-um Kâ-ni-iš-ma 3a-na šî-ip-ri-ni 4[gi-bi-ma]*; cf. above, p. 20, note 85 and presently.

<sup>297</sup> See above, pp. 17 f.

<sup>298</sup> See above, p. 20, note 85.

<sup>299</sup> The address of *Gol.* 21 reads: *1[a-na šî-ip-r]i ša a-lim<sup>KI</sup> 2ù kâ-ri-i[m] 2[Kâ-ni-iš gi-bi-ma um-ma wu-bar-tum 3[ša Uš-ḫa]-ni-a-ma.*

<sup>300</sup> See ll. 37<sup>b</sup> ff.: *lu-qû-tum iš-tù êkallim<sup>lim</sup> 38ur-dam-ma šî-ip-ru ša a-lim<sup>KI</sup> 4 li-mu 39annakam a-na ḫu-bu-ul Puzur-A-šûr 40ša a-na A-šûr ḫa-bu-lu a-na bît kâ-ri-im . . . . .* As another piece of evidence relating to the activity of "envoys of the city" in the capital of Halys Assyria I mention ll. 6<sup>b</sup> ff. of the letter *CCT* IV 7<sup>c</sup> in which an unknown man recalls how *šîprû ša âlim* arrived at Kaniš and inspected his father's "sealed room". As for the request of an influential resident of Aššur to dispatch money from Kaniš to Aššur through *šîprû ša âlim*, see above, p. 26, note 109 in fine.

<sup>301</sup> VAT 6209 runs as follows: *1a-na šî-ip-ri ša a-lim<sup>KI</sup> 2ù kâ-ri-im Kâ-ni-iš 3gi-bi-ma um-ma wu-bar-tum 4ša Ša-mu-ḫa-ma a-na-kam 5a šu-mi ša emâri 6ša êkal-lum<sup>lum</sup> iš-bu-tù-[ni] 7êkallam<sup>lam</sup> nu-<ma>-ḫir-ma 8um-ma êkallum<sup>lum</sup>-ma 9šu-ma mi-iš-lâ-am 10[t]a-lâ-gi-a li-[gi-a] 11[. . . . l]â-gi [ . . . . . ] 12[. . . . . ] (rev.) x+1lu-ni-ir-[dî] x+216 bilâtîm 30 m[anâ'ê annakam] x+33 3 emâri<sup>H</sup>[I.A] x+4[ša-lâ]-mî i-dî-<nu>-ni-a-[tî-ma] x+5[a-na] šî-ip-ri-ku-nu x+6[ni]-ip-gi-id-ma x+7i-[ra]-dî-ú-ni-ku-nu-tî x+8šî-ip-ru-ku-nu x+9ni-nu ni-zî-iz-ma x+10šî-bî, ni-iš-ku-šu-nu-tî.*

<sup>302</sup> See ll. x+5 and x+8 and cf. ll. x+6 ff. of *TC* 40 (above, p. 20, note 85), according to which "our messengers", i. e. messengers dispatched by "the envoys of the city and the *kârum Kaniš*", received instructions with respect to a sum of silver to be transported by them to Kaniš.

<sup>303</sup> With respect to such instructions it is pertinent to cite the concluding lines of the letter *TC* III 75 which a certain Dadâa sent to Kaniš in order to acquaint Innâa, the afore-mentioned influential citizen of Kaniš, with the circumstances of his involuntary sojourn at Naduḫtum. After reporting how he "went up repeatedly to the prince and to the second in command" (ll. 6 ff.; see above, p. 46, note 173) in order to obtain permission to depart, Dadâa states why the prince refused to

implications of *Gelb* No. 40, a small fragment from Ališar which conveyed to "every *kârum* and all the *wubârâtum*" a directive issued in common by the *šiprû ša âlim u kârim Kaniš*<sup>304</sup>; we learn here, in fact, that, like "the envoys of the *kârum Kaniš*" who, inter alia, are known to have gone on special missions to Hurrama and Timilkia<sup>305</sup>, the envoys of the city of Aššur came sometimes in person to small Assyrian settlements such as the *wubârâtum ša Amkuwa*. In view of such evidence we are obviously entitled to compare the *šiprû ša âlim* with the

accede to his request (ll. 10<sup>b</sup>-13). In the partly destroyed lines 14-23, Dadâa then goes on to inform his correspondent of the outcome of a second interview with the prince, who finally declared "I shall <not> let free the three of you — Aššur-nimri, Aššur-muttabil and thee —, until an order from [Ka]niš arrives" (see ll. 24 ff.: *um-ma ru-ba-û-ma* <sup>283</sup> *ku-nu-ti A-šur-ni-im-ri* <sup>26</sup> *A-šur-mu-ta-bi-il<sub>6</sub>* *û ku-a-ti* <sup>27</sup> <lâ> *û-ša-ar a-dî ti-er-tum* <sup>28</sup> *iš-t[û Kâ]-ni-iš i-lâ-kâ-ni*).

<sup>304</sup> We restore this fragment as follows: <sup>1</sup>*[um-ma šî-ip-ru ša a-lim<sup>K1</sup>] 2[û] kâ-r[i-im Kâ-ni-iš-ma] 3[a-n]a kâ-ar [kâ-ar-ma] 4û wu-ba-ra-[im] 5šaher rabi qî-bi<sub>4</sub>-ma [a-na-kam] 6I-dî-Ku-bu-um mêt [U-šur-ša-A-šur] 7im-ḥu-ur-ni-a-ti-[ma] 8um-ma šu-ut-[m]a . . . . . Since *TC* 32 (see above, p. 68, note 286), *TC* 40 (see above, p. 69, note 296) and the letters quoted in the following footnote refer — in part directly and in part indirectly — to *šiprû ša kârim Kaniš*, there is obviously no reason for taking seriously the proposal of Bilgiç, *loc. cit.*, p. 31, to "emend" [û] *kâ-r[i-im Kâ-ni-iš-ma]* (l. 2) to [û] *kâ-ru(!)-[um Kâ-ni-iš-ma]*. That the last word of l. 5 was *annakam* "here" follows, inter alia, from the corresponding passages of the cognate letters *TC* 35 (ll. 5 ff.) and *BIN VI* 32 (ll. 5 ff.). The restoration of the missing end in l. 6, in which we concur with *Gelb*, *op. cit.*, p. 47, is based upon the fact that an *Idi-Kubum mêt Ušur-ša-Aššur* figures in several texts from Ališar. Since it can safely be assumed that *Idi-Kubum* received a copy of the circular letter sent on his behalf to all *kârû* and *wubârâtum*, the conclusion imposes itself that *Gelb* No. 40 comes from his house. A comparison of the numbers given by the excavators to the tablets mentioning *Idi-Kubum mêt Ušur-ša-Aššur* proves the correctness of this inference. Hence it is manifest that our text reflected a conversation between *Idi-Kubum* and the officers referred to in ll. 1 f.*

<sup>305</sup> See *KTS* 7<sup>b</sup>, 1 ff. (*a-na I-na-a qî-bi-[ma] 2um-ma Puzur-A-šûr-ma šî-ip-[ru] 3ša kâ-ri-im Kâ-ni-iš 4i-na Ḥu-r[a](!)-ma iṣ-bu-tù-<nî>-ma 5um-ma šu-nu-ma ba-a-am(!) 6a-na šê-er šî-ip-ri-im 7ša kâ-ri-im Kâ-n[i-i]š 8a-na Tî-mè-i[l<sub>6</sub>-ki-a . . . . .]*) and cf. my remarks in *Symbolae Hrozný*, IV, p. 427. Among other texts reporting either the arrival or the temporary presence of messengers unquestionably to be defined as envoys of the *kârum Kaniš* are most significant two unpublished letters also addressed to Innâa, the well-known resident of Kaniš who figures in *TC* 45 in connection with the *šiprû ša âlim* (see above, p. 26, note 109 in fine sub 2). The first of these texts (shown to me in 1929 by Professor Böhl) reads in ll. 3<sup>b</sup> ff. as follows: *ki-ma 1šî-ip-ru-û 2ša kâ-ri-im 3e-ru-bu-ni-ni 4tu-p-pâ-am 5[. . . . .]*, the second, a tablet in the Neukirch Collection, includes in ll. 6<sup>b</sup> ff. the following laconic statement: *[lu]-qû-ut 7[Ma-num-b]a-lîm-A-šûr 8a-na šî-ip-ri-im 9ša kâ-ri-im 10am-nu-ma na-šî*. Cf. further ll. 20 ff. of the letter *CCT IV* 16<sup>c</sup>, in which Innâa is asked to send through a *šiprum ša kârim* a bale of cloth of Abarnian make, and ll. 17 ff. of *BIN VI* 23, in which Sinêa speaks of his intention to travel together with the *šiprû ša kârim*.



*missi discurrentes* of the Merovingians or still better with the *missi dominici* of Charles the Great who, according to G. Seeliger<sup>306</sup>, not only brought the king's will into the provinces of the Carolingian Empire but also possessed the full powers enabling them to perform the tasks resulting from their "quite general function *ad justitias faciendas*, i. e. to preserve the right in every direction." In addition to drawing this parallel between the Old Assyrian "envoys of the city" and "the king's envoys" of the Frankish Empire, we may, of course, characterize the *šiprû ša âlim* and their functions by referring to that class of Neo-Assyrian officials whom their designation as *qurrubâtu*<sup>307</sup> or *qurbâtu* defines as men of the king's entourage<sup>308</sup>; for the data gathered by Klauber<sup>309</sup> leave no doubt that Sargon and his successors were wont to dispatch these high-ranking officers on special missions into all parts of their empire.

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It goes without saying that the preceding survey of the principal data pertaining to the organization of the Old Assyrian Empire calls for an

<sup>306</sup> *The Cambridge Medieval History*, II, New York 1913, p. 682.

<sup>307</sup> Since *qurrubâtu* is to *qurrubu* as, e. g., *šâlûtu* (Delitzsch, *HWB*, p. 66a) is to *šâlû*, we see — with Ungnad, *Glossar*, p. 128 — in *qurrubâtu/i* a collective derived from the permansive of the D-stem of *qarâbu*, and not a by-form of *qurbâtu/i*. That such collectives served also as designations of single individuals was duly noted by Landsberger, *ZA* 39, 1930, p. 292.

<sup>308</sup> Much as some documents (listed by Streck, *Assurbanipal*, I, Leipzig 1916, p. CXLIII, note 1 and Klauber, *Assyrisches Beamtentum nach Briefen aus der Sargonidenzeit*, Leipzig 1910, p. 105 s. v. *mutîr pâti*) mention officers designated as *amêlqur-bu-tu* (var. *amêlqur-bâtu*) *ša mâr šarri*, *K.* 912 (Harper, *Assyrian and Babylonian Letters*, VII, Chicago 1902, No. 721) refers in ll. 14 f. to a *amêlšakin qur-ru-bu-ti šá šarri*; cf. Klauber, *op. cit.*, p. 108. Th. Bauer, *ZA* 40, 1931, p. 253 was therefore certainly right in intimating that *qurbâtu* means as much as "(officers) close to the king". In other words, we need not hesitate to concur with Klauber, *op. cit.*, p. 106, who characterized the *amêlqurlûti* as an aide-de-camp. Hence it is difficult to see why Ungnad (see the preceding footnote and cf. p. 193 of his *Grammatik des Akkadischen* [München 1949]) continued to describe the *qurbâti* and *qurrubâti* as "Gardisten", thus suggesting that they were soldiers of a comparatively low rank. Neither the occurrence in *K.* 443 (Kohler und Ungnad, *Assyrische Rechtsurkunden*, Leipzig 1913, No. 183) of a *amêlqur-bu-u-ti ša šêpê*<sup>II</sup> nor Sennacherib's well-known statement that he ascended the mountains *it-ti amêlqur-bu-ti šêpê*<sup>II-ia</sup> *nâ-as-qu-ti û amêlšâbê*<sup>MEŠ</sup> *tu-ḥa-zi-ia la ga-me-lu-ti* (Taylor Prism, III 72 f.) can be adduced in support of Ungnad's translation, which, incidentally, seems to have been influenced by his former interpretation of *\*\*mutîr pâti* "(Frontwender =) Gardesoldat". For since the Old Assyrian idiom *luqâtum ša šêp X* denotes "merchandise transported under the supervision of X", it is logical to ascribe to the title *qurbâti ša šêpê* (scil. *ša šarri*) the meaning "aide(s)-de-camp accompanying the king", "aide(s)-de-camp on duty".

<sup>309</sup> *Op. cit.*, pp. 106 ff.

attempt to determine the relative chronology of that *Šelûlu mēr Ū-ku* who, for the reasons adduced before<sup>310</sup>, is likely to have been a grandson of the *išši'akkum Šelûlu*. As was likewise noted<sup>311</sup>, the "younger *Šelûlu*" sealed, inter alia, the case-tablet of *ICK 29*<sup>312</sup>, a document stating that a certain Amur-Šamaš bought Mannum-kî-abia and Wêr-bâni from one Ušurânûm and that, having received the purchase price of those two slaves, the latter would not raise claims upon their new owner.<sup>313</sup> We also mentioned that the seal impression of *ICK 29* identifies the seller of the slaves as the son of a Kutâa, and that this detail enables us to gather information about Ušurânûm's business activities, the persons with whom he associated and the place of his permanent residence.<sup>314</sup> The first source to be adduced in this connection is *VAT 9300*, an unpublished text very similar to the business record *KTHahn 36*. Its well-preserved sections (ll. 1-12<sup>a</sup> and x+5 to x+16) run as follows: <sup>1</sup>10 manâ'û kaspum iš-tí <sup>d</sup>Adad-šú-lu-li <sup>2</sup>1/3 manâ'em kaspum iš-tí Pî-lá-aḫ-Ištar <sup>3</sup>mêr A-šûr-rê'im <sup>4</sup>5 1/3 manâ'û iš-tí I-a-šar <sup>5</sup>4 manâ'ê kaspum û 3 <sup>subâi</sup>ku-ta-ni <sup>6</sup>išti Ili-na-da mēr A-šûr-na-da <sup>7</sup>1/2 manâ'em 5 šiglû kaspum išti Šu-Ištar mēr Šu-A-nim <sup>8</sup>1 2/3 manâ'û 1 šiglum kaspum išti <sup>9</sup>I-ku-pî-A-šûr 2 manâ'û kaspum <sup>10</sup>išti Im-li-kà-a 2 mî-at šubâtî <sup>11</sup>ša qá-tim I-dî-Ku-bu-um <sup>12</sup>i-lá-qí-ma . . . . . <sup>x+5</sup>mêr Da-da 1/3 manâ'em <sup>x+6</sup>iš-tí E-li 2 manâ'û <sup>x+7</sup>iš-tí Wa-wa-li 1/3 manâ'em <sup>x+8</sup>iš-tí <sup>d</sup>Adad-ba-ni <sup>x+9</sup>mêr Du-du 2 manâ'û 15 šiglû <sup>x+10</sup>iš-tí Ku-ra mēr I-šî-ḫi-im <sup>x+11</sup>1/3 manâ'em iš-tí Ū-šú-ra-nim <sup>x+12</sup>mêr Ku-tá-a <sup>x+13</sup>4 1/2 bilátum eri'um iš-tí <sup>x+14</sup>A-šûr-tak-lá-ku mēr Puzur-Sîn<sup>in</sup> <sup>x+15</sup>1/3 manâ'em iš-tí <sup>x+16</sup>Ī-lí-áš-ra-ni. As was already intimated, *Ušurânûm mēr Kutâa* figures in this text alongside of several businessmen whose relative chronology and place of permanent residence can be established. To begin with Adad-šulûli (l. 1) and Ea-šar (l. 4), a passage of a letter which they and a certain Aššur-mâlik dispatched to Pûšu-kên informs us that, being absent from Kaniš, they asked this well-known resident of Kaniš to forward to them a communication which they expected to receive from Puzur-Aššur.<sup>315</sup> Thus it appears not only that they travelled in Pûšu-kên's interest as employees of his but also that their correspondents were wont to write

<sup>310</sup> See above, p. 29.

<sup>311</sup> See above, p. 31.

<sup>312</sup> As stated before, the envelope of *ICK 29* is the only of the case-tablets sealed by *Šelûlu mēr Ū-ku* which was published in toto.

<sup>313</sup> The Assyrian text of *ICK 29* A and B is found above, p. 24, note 105.

<sup>314</sup> This point is important because it is a legitimate assumption that the witnesses to *ICK 29* lived in the same town as Ušurânûm and Amur-Šamaš.

<sup>315</sup> See *TC II 18*: <sup>16</sup>šû-ma ṭup-pu-šu <sup>17</sup>ša Puzur-A-šûr a šê-ri-ni <sup>18</sup>i-lî-kam šî-ta-me-šu-ma <sup>19</sup>a-ni-ša-am šê-bî-lam.

to them to Kaniš "care of Pûšu-kên". So far as Ea-šar is concerned, the conclusion as to his association with Pûšu-kên is borne out by several letters, among which we cite especially *Contenau* 5, a message in which he calls Pûšu-kên his father and master, i. e. his principal; in connection with a remark to the effect that he would soon set out in order to join Pûšu-kên, he mentions here his intention of leaving behind Wawali (see *VAT* 9300, x+7 and cf. *KTHahn* 36, 38), whence it follows that the latter, too, was — directly or indirectly — in the employ of Pûšu-kên and his associates.<sup>316</sup> As regards Imlikâa (*VAT* 9300,10), it is likewise indicated to see in Kaniš the trade center where he was established, even though, according to *EL* 82, his activities included trips to Burušhaddum. For this assumption accounts best for the appearance among the Kültepe texts of the two almost identical promissory notes *EL* 39 and *TC* III 225, in which he figures as witness, as well as of the contract *EL* 82, which obligates him to repay an amount of a hundred and six shekels of silver by "sending here half a mina of silver upon his arrival at Burušhaddum" and "weighing out", i. e. paying personally, the balance after seven months. Turning to *Ili-na'dâ mēr Aššur-na'dâ* (*VAT* 9300, 6), we have no difficulty in showing that he was living at Kaniš; for *EL* 226 and *TC* III 213, i. e. two *Sammelurkunden* consisting of copies of promissory notes in favor of Enlil-bâni, who is known to have been a prominent merchant of Kaniš<sup>317</sup>, mention him, on the one hand, as a witness of a contract in which Pûšu-kên's son Buzâzu acknowledged a loan granted him by Enlil-bâni<sup>318</sup> and, on the other, as representative of the *kârum* in a transaction by which Enlil-bâni became a creditor of the *bît kârim*.<sup>319</sup>

Although the data just gathered suggest that *VAT* 9300 deals exclusively with residents of Kaniš, it must, of course, be admitted that the occurrence of the name *Ušurânum mēr Kutâa* in ll. x+11 f. of the same tablet does not in itself prove that *ICK* 29 records a transaction which took place at Kaniš. Hence it is necessary to

<sup>316</sup> This inference is confirmed by the fact that letters such as *TC* III 3 and *KTS* 7a include references to Wawali; for Puzur-Aššur, to whom these letters are addressed, was a trader closely associated with Pûšu-kên and his sons.

<sup>317</sup> Cf. *Symbolae Hrozný*, IV, 1950, p. 373.

<sup>318</sup> See *EL* 226, 31-44a.

<sup>319</sup> See *TC* III 213, 27b-44. It is interesting to see that, according to ll. 42b-44, *Ili-na'dâ mēr Aššur-na'dâ* (l. 31) sealed the case-tablet of the original record of this transaction not as a witness but as one of three men who accepted Enlil-bâni's loan in the name of the *bît kârim*. (Cf. the analogous business recorded in *EL* 225, 23-38a.) Note that this activity of *Ili-na'dâ* did not fall in the same year as his witnessing the contract just cited, in which Pûšu-kên's son acknowledged his indebtedness to Enlil-bâni.

supplement the evidence so far presented by quoting two pieces of information which are found in an unpublished letter (*VAT* 9244) addressed by Ušurânum to Pûšu-kên, Innâa, who is likewise known to have been a prominent resident of Kaniš<sup>320</sup>, and a third man called "the fair" Kilîa.<sup>321</sup> Ll. 17 ff. of this letter consist of the following typical request which makes it certain that Ušurânum was established in the same trade center as Pûšu-kên and Innâa: <sup>17</sup>*kaspam ša tamkarî<sup>ri</sup>-a* <sup>18</sup>*lâ tù-šé-bi-lá-nim a-ša-me-ma* (rev.) <sup>19</sup>*šubâtû<sup>H1</sup> lâ-a ša šé-ep mēr Ū-za-ri-a* <sup>20</sup>*a-na i-ta-aṭ-lim ta-ad-nu* <sup>21</sup>*a-na-kam ša ma-aḥ-ri-šu šubâtû<sup>H1</sup> lâ-a* <sup>22</sup>*i-dî-nu-ni iq-bi-a-am a mî-nim kaspam* <sup>23</sup>*lâ tù- <šé>-bi-lá-nim* <sup>24</sup>*a-ḥu-ú-a a-tù-nu* <sup>25</sup>*ih-da-ma lu ša ba-ab-ti-a ša ūmî<sup>m</sup>* <sup>26</sup>*lu ša i-ta-aṭ-lim lu ša ni-kà-si-a* <sup>27</sup>*iš-ti ba-ti-qí-im za-ku-tám šu-up-ra-nim* <sup>28</sup>*"You did not send me* <sup>29</sup>*the money payable by my customers.* <sup>30</sup>*I hear that* <sup>31</sup>*my cloths which arrived with Uzaria's son* <sup>32</sup>*have been sold for cash upon delivery.* <sup>33</sup> (Thus) <sup>34</sup>*told me* <sup>35</sup>*here (the man) in whose presence* <sup>36</sup>*they sold* <sup>37</sup>*my cloths.* <sup>38</sup>*Why* <sup>39</sup>*did you not send* <sup>40</sup>*the money?* <sup>41</sup>*You (are) my colleagues!* <sup>42</sup>*Be careful and* <sup>43</sup>*send me with the (next) courier*

<sup>320</sup> For details concerning Innâa and his business activities see *Symbolae Hrozný*, IV, 1950, pp. 424 ff. and cf. above, passim.

<sup>321</sup> *VAT* 9244 begins as follows: <sup>1</sup>*a-na Pu-šu-ki-in I-na-a* <sup>2</sup>*û Ki-li-a* SIG<sub>7</sub>.A <*qî-bi-ma*> <sup>3</sup>*um-ma Ū-[šú-ra-n]u-um-ma*. The restoration of the damaged signs in l. 3 imposes itself in view of the reference in ll. 27 ff. (see presently) to a slave named Mannum-kî-abia, all the more so since this name — probably a typical slave name — is rare. — Surnames such as SIG<sub>7</sub>.A "the fair one" occur in a few other Kültepe texts; see, e. g., *TC* III 34, 14 and *BIN* VI 157, x+9, where an additional *ma-ṭim* (genitive) "the weak one", "the crippled one" distinguishes a certain Šû-Sîn from other bearers of his name. (As regards the somewhat unexpected spelling *ma-ṭim*, cf. the occurrence in *CCT* 33<sup>b</sup>, 10, *CCT* III 16<sup>b</sup>+17<sup>a</sup>, 18 and a few other texts of *a-nim* instead of the usual *a-ni-im* or the occasional *a-ni-i-im* [*EL* 212 B, l. 5; cf. *a-ni-a-am*: *BIN* VI 177, x+14].)

<sup>322</sup> Lit., "the silver of my licensed merchants".

<sup>323</sup> Lit., "I hear and my cloths of the foot of Uzaria's son have been handed over for looking at each other". Our rendering of the idiom *ana itaṭlim nadânum* is based, on the one hand, upon the Old Babylonian expression *bîtu ana kaspi ū-ta-ṭa-lu* (see *KTS*, p. 63 and cf. now Landsberger, *Die Serie ana ittišu*, Roma 1937, pp. 30 and 139) and, on the other, on Old Assyrian passages such as *KTS* 19<sup>b</sup>, 25 ff. (*lu-qú-ti ša šé-ep* <sup>26</sup>*A-na-lí a šé-er ša* <sup>27</sup>*kî-ma i-a-ti a Bu-ru-uš-ḥa-dim* <sup>28</sup>*lu-šé-ri-ib-ma* <sup>29</sup>*la-ti-ig ū-tur, a-na i-ta-aṭ-lim* <sup>30</sup>*li-dî-nu . . .*) and *CCT* II 46<sup>a</sup>, 14 ff. (. . . . . *a-na* <sup>15</sup>*Bu-ru-uš-ḥa-dim* <sup>16</sup>*šé-ri-ba-ma a-na* <sup>17</sup>*i-ta-aṭ-lim dî-na-ma* <sup>18</sup>*a-dí kaspum e-ru-bu annakam* <sup>19</sup>*šubâtû<sup>H1</sup>. A lá tù-ša-ra* <sup>20</sup>*kaspum le-ru-ub-ma annukum* <sup>21</sup>*šubâtû<sup>H1</sup>. A lu-šú a-ḥu-ú-a* <sup>22</sup>*be-lu-ú-a a-tù-nu* <sup>23</sup>*ih-da-ma kaspam* <sup>24</sup>*iš-ti* <sup>25</sup>*pá-ni-ú-tim-ma šé-bi-lá-nim-ma* <sup>26</sup>*gis-mî-lam* <sup>27</sup>*a-na šé-ri-a šu-uk-na*). These passages make it clear that the Old Assyrian traders who instructed their agents to "give" merchandise *ana itaṭlim* wished to be paid at once.

<sup>324</sup> Lit., "You are my brothers!", i. e. "I expect you to act like brothers since we are colleagues!"

a clear (report) about <sup>24</sup>either the long-term claim(s) of mine <sup>25</sup>or the (sums received as) cash upon delivery or the (sums credited to) my account!" Of even greater significance in regard to the subject of our investigation is, however, the fact that Ušurānum continues as follows: <sup>27</sup>*áš-pu-ra-ku-nu-tí um-ma a-na-ku-ma* <sup>28</sup>*urđi<sup>d1</sup>-a* <sup>325</sup>*ki-ma e-ru-bu-ni-ni* <sup>29</sup>*ṭur<sub>4</sub>-da-nim a-tù-nu Ma-ši-be-lí* <sup>30</sup>*ù I-šar-lu-ba-la-aṭ t[ù]-ùḫ-[t]a-li-qá* <sup>31</sup>*šū-ma a-ḫu-ú-a a-tù-nu* <sup>32d</sup>*Šamaš-tap-pá-i Ma-nu-ki-a-bi-a ù A-da-a* <sup>33i</sup>*pá-nim-ma ṭur<sub>4</sub>-da-nim* <sup>427</sup>"I had sent you a message; thus I (said therein): <sup>29</sup>Dispatch to me <sup>28</sup>my slaves as soon as they arrive!" (But instead of doing so) <sup>29</sup>you <sup>30</sup>actually ruined <sup>29</sup>Maši-bêli <sup>30</sup>and Išar-lû-balaṭ. <sup>326</sup> <sup>31</sup>If you (are truly) my colleagues, <sup>33</sup>dispatch to me <sup>32</sup>Šamaš-tappâ'i, Mannu(m)-kî-abia and Addâa <sup>33</sup>at the first opportunity!" Quite obviously, this passage proves that the slave Mannum-kî-abia was known at Kaniš and worked there for his master Ušurānum before the latter sold him to Amur-Šamaš in the presence of Šelûlu and Puzur-Šadû'e.

On the other hand, it follows from VAT 9244 that, like so many of his colleagues, Ušurānum sometimes attended to business in places other than Kaniš; moreover, according to the lines just quoted, he was more or less wont to make sure that his slaves would follow him to the towns where his affairs required his presence.<sup>327</sup> Hence there arises the question as to whether or not the transaction by which Amur-Šamaš acquired Ušurānum's slave Mannum-kî-abia can safely be supposed to have taken place at Kaniš. The answer to this question comes from the afore-mentioned fact that, according to ICK 29 (A 9; B 2), a certain Puzur-Šadû'e witnessed the closing of this deal. To be sure, neither the text of ICK 29 nor the seal impressions on its case-tablet say anything about the identity of this witness, even

<sup>325</sup> ARAD<sup>d1</sup>-a. On the various writings of the term *wardum/urđum* and on its by-forms see EL I, p. 76, note c and *Orientalia* 15, 1946 p. 384, note 3, respectively. Cf. further BIN VI 20, 21 f.: *iš-tí Wa-ar-dí-im mēr I-ku-nim*; from a comparison of this passage, of EL 94, 22 (*maḫar IR mēr Lá-qí-ip*; cf. EL II, p. 176), of TC III 269, 2 (*a-na Lá-qí-ip mēr IR*; cf. the variant writing in EL 144, 18: *maḫar Lá-qí-ṭí-im mēr IR<sup>dim</sup>*) and of ICK 37 A, 9; B 3 (ARAD *mēr Ku-lu-ma-a*) it follows that the signs IR and ARAD served also as a means of writing the personal name *Wardum* which, in turn, must be compared with the Akkadianized Old West Semitic name *Ḫa-ab-du-um*.

<sup>326</sup> In using the term *ḫalluqum* "to ruin", Ušurānum probably refers to harm done to his slaves by overworking them.

<sup>327</sup> Perhaps it should be mentioned that the dispatching of slaves from one town to another was nothing unusual. Cf., e. g., passages such as Gol. 18, 18 ff. (*1 1/2 šiqiam kašpam Du-na* <sup>19</sup>*wardum ša A-ḫu-qar* <sup>20</sup>*na-áš-a-ki-na-tí*) and CCT III 1, 10 f. (*Ga-ki-i* <sup>11</sup>*warad<sup>ad</sup>-kà emāram ir-dí-a-ma . . . . .*).



though he bore a rather common name.<sup>328</sup> But since, as is well known, the Assyrians chose as witnesses preferably persons close to the parties concerned, this very fact suggests that Puzur-Šadû'e was related to Amur-Šamaš. An examination of those Kültepe texts which mention either an Amur-Šamaš or a Puzur-Šadû'e actually shows that the two men were brothers. This is learned, on the one hand, from the occurrence in *TC* II 55, 7 f. and *CCT* 26<sup>c</sup>, 7 of an *A-mur-<sup>d</sup>Šamaš mēr Za-li-dī* (var. *Za-li-dī*)<sup>329</sup> and, on the other, from a somewhat damaged *Sammelmemorandum*, shown to me in 1928 by a dealer in antiques, which includes the following passage: <sup>x+6</sup>*kaspam ša-ru-pá-am i šé-er* [. . . . .] <sup>x+7</sup>*Pu-šu-ki-in i-šu iš-tù ḥa-muš-[tim ša. . . . .]* <sup>x+8</sup>*warah<sup>h</sup> KAM tí- <i>-na-tim li-mu-um* [. . . . .] <sup>x+9</sup>*i-ša-qal maḥar Puzur-SA.TU mēr Za-li-dī maḥar* [. . . . .] <sup>x+10</sup>*maḥar I-ku-pí-a mēr En-na-Sîn<sup>in</sup>*.<sup>330</sup> Aside from revealing the fraternal tie which linked Puzur-Šadû'e and Amur-Šamaš, these texts make it obvious that Zâ-lidi's sons were living at Kaniš. For to say nothing about the fact that the commercial notes *TC* II 55 and *CCT* 26<sup>c</sup>, as well as the unpublished memorandum which mentions *Puzur-Šadû'e mēr Zâ-lidi* as witness, come from Kültepe, it is obvious that, as long as there is no evidence to the contrary, a witness to a promissory note made out in favor of Pûšu-kên must be supposed to have been a resident of Kaniš. It is also manifest that the data just discussed compel us to define *Šelûlu mēr Ū-ku* as a contemporary of Pûšu-kên.

A comparative analysis of documents such as *ICK* 20, *KTBI* 11, *EL* 41, *EL* 329 and *EL* 327 enables us to go a step further and to establish a chronological link between *Šelûlu mēr Ū-ku* and a ruler of Aššur: From *KTBI* 11, 5 ff. it is learned that Pûšu-kên and a certain Puzur-Aššur served as *ḥamuštum*-eponyms in the course of the eponymate of *Elâ-(i)li mēr Ikûnim*, who recurs in *EL* 41, 17 ff. together with *Puzur-Aššur mēr Šû-Anim*, i. e. with a man figuring in

<sup>328</sup> The seal he used when sealing the case-tablet of *ICK* 29 has no legend. Moreover, *ICK* 29 B so far being the only tablet with an impression of this seal, it is at present impossible to secure further information about Puzur-Šadû'e by consulting a case-tablet which, in distinction from *ICK* 29, might have mentioned his father's name or the like.

<sup>329</sup> The theophoric element of the name *Za-li-dī* figures also in the name *E-na-Za* (*EL* 261, 20; *TC* III 187, x+2). Since the latter name recurs in *ICK* 106, 16, it ought to have been listed by Matouš on p. 19 of his name index.

<sup>330</sup> [The contemporaneity of Zâ-lidi's sons and Pûšu-kên is corroborated by the document *MAH* 16569 in which *Amur-Šamaš mēr Zâ-lidi* agreed to pay a debt owed by *Šû-Bêlum mēr Šalim-Aššur*, who figures in *TC* III 28 in connection with Pûšu-kên. Note that Zuba, one of the witnesses of the agreement recorded in *MAH* 16569, appears also in the above-cited business note *CCT* 26<sup>c</sup>.]

ICK 20 (case-tablet, ll. 4 ff.) in the company of *Agussa mēr Šû-Anim*. Pûšu-kên and the eponym Elâ-(i)li thus turn out to have been contemporaries of that *Agussa mēr Šû-Anim* who played an important rôle in the legal case dealt with in the interrelated documents *EL* 327, 328 and 329.<sup>331</sup> As was recalled above, p. 67, note 282, one of these three documents, the case-tablet *EL* 327, was sealed with a seal bearing the legend <sup>d</sup>*Šarrum-kên išši'ak* <sup>d</sup>*A-šûr mēr I-ku-nim išši'ak* <sup>d</sup>*A-šûr*.<sup>332</sup> When adding to these data the above-discussed evidence pertaining to

<sup>331</sup> Note that *EL* 329 was written in the eponymate of Elâ-(i)li, i. e., as was just stated, in a year in the course of which Pûšu-kên served as *hamuštum*-eponym.

<sup>332</sup> The contention of Landsberger, *JCS* VIII, 1954, pp. 108 f., note 200 that l. 1 of this seal legend reads not <sup>d</sup>*Šarrum-kên* but AN.LUGAL = *Ilum-šar* and the far-reaching conclusions he is inclined to draw from this "richtige Lesung" can and must be dismissed. A careful examination of the original print of the photo of a second impression of the same seal which I published in 1927 (*Nachrichten der Giessener Hochschulgeseellschaft* VI, pl. V, fig. 4) confirms the presence after LUGAL of a poorly preserved third sign. Its relative smallness explains why Balkan did not distinguish it on the unpublished duplicate referred to by Landsberger. On the other hand, it is idle to debate the question whether the impossibility to determine it as GI (cf. the well-known early spellings of the name of Šarrum-kên of Akkad!) or as DU (as proposed by Sayce in his discussion of the impression on *EL* 327) is due to damage of the seal-cylinder or rather to imperfect engraving of its legend, the imperfection possibly being caused by lack of space. For the above-cited inscription of Aššur-rîm-nišešu (*AOB*, I, pp. 34 ff.) and the Assyrian king list preclude any doubt that Ikûnum's successor on the throne was his son Šarrum-kên.

[The existence of the third sign at the end of the first line of the legend of the "Šarrum-kên seal" is now admitted by Balkan, *op. cit.*, pp. 52 f. But the emphasis with which he argues that "the reading <sup>d</sup>*Šarrum-kên* would be the only example from the Old Assyrian period of a king's name having been written with the determinative of god" is hardly justified because, for instance, Narâm-Sîn of Ešnunna placed DINGIR before his name. As regards Balkan's opinion that Šamši-Adad's name appears sometimes with the determinative DINGIR because "it begins with the name of the god <sup>d</sup>*Šamaš*" (*op. cit.*, p. 53), I may be permitted to refer him to my remarks in *Revue des études sémitiques* 1938, p. 58, note 6, which are now borne out by the occurrence in the Mari texts of the names *Sa-am-si-<sup>d</sup>Da-gan* (see Bottéro et Finet, *op. cit.*, p. 154) and *Sa-am-si-E-ra-aḥ* (*Syria* XX, 1939, p. 107). Moreover, the appearance at Mari (see Bottéro et Finet, *op. cit.*, p. 154) and Çager Pazar (see Gadd, *Iraq* VII, 1940, p. 41) of the personal names *Sa-am-si-<sup>d</sup>Adad-tu-kûl-ti* and *Sa-am-si-<sup>d</sup>Adad-î-lî* compels us to posit at least an "inofficial" deification of Šamši-Adad I; cf. the analogous Old Babylonian personal name *Ha-am-mu-ra-pî-î-lî/AN* and the observations of Falkenstein, *Symbolae Hrozný*, I, 1949, pp. 212 ff. and see further Hildegard Lewy, *ibidem*, II, 1949, pp. 83 ff.; *Mélanges Isidore Lévy*, Bruxelles 1955, pp. 270 ff. Additional proof that, contrary to the views of Balkan, the deification of the kings is a characteristic of the epoch of Šamši-Adad I comes from the inscription on the duck weight, *Assur* 5925 (Schroeder, *op. cit.*, No. 3). As duly noted by Jacobsen, *Oriental Institute Publications*, XLIII, Chicago 1940, pp. 117, note 5, ll. 1-3 of this inscription read <sup>d</sup>*Da-du-[ša] mâr* <sup>d</sup>*I-bi-iq-<sup>d</sup>Adad šâr Êš-nun-na*<sup>KI</sup>. Incidentally, had Balkan taken cognizance of the "Building Inscription No. 13" (*ibidem*, p. 138) and the pertinent remarks of

the sons of Zâ-lidi, to Pûšu-kên and to Šelûlu, the son of Ū-ku, we arrive, of course, at the conclusion that the latter and Šarrum-kên of Aššur were contemporaries.<sup>333</sup>

The same chronological result is obtained if due attention is paid to the fact that, according to *EL* 172, a certain Šu-Ištar mēr Šu-a-a was active in the eponymate of Elâ-(i)li, i. e., as already noted, in the year to which *EL* 329 is dated and during which Pûšu-kên held the office of a *hamuštum*-eponym. For from a document which was written while Pûšu-kên was still alive, namely from *EL* 330<sup>a</sup> = *TC* III 273, it is learned that Šu-Ištar mēr Šuâa was a contemporary of Pûšu-kên's second son, Sînêa.

Jacobsen, *Oriental Institute Communications*, No. 13, Chicago 1932, p. 48, he certainly would have refrained from telling his readers with respect to our seal legend *dŠarrum-kên* PA.TE.SI *dA-šûr mēr I-ku-nim* PA.TE.SI *dA-šûr* that it "would be an unheard of act of impiety that Sargon claimed to be a god himself, but deprived his father of this privilege."]

<sup>333</sup> Among the numerous documents which shed light on Pûšu-kên mēr Sînêa and his descendants, the most informative are *EL* 310 and 311 and *EL* 11, which latter is now supplemented by the letter *TC* III 99. From *EL* 11 it results that Pûšu-kên's estate was divided among five children, viz. his sons Aššur-muttabil, Sînêa, Buzâzu, Ikû(n)-pâša and a daughter, the priestess (NIN.DINGIR) Aḥaḥâ. (On NIN.DINGIR/*gubabtum*/*ugbabtum* see Nougayrol, *JNES* IX, 1950, pp. 51 f. and *RA* XLIV, 1950, pp. 27 f.; J. Lewy, *Symbolae Hrozný*, IV, 1950, p. 372, note 37 and cf. further *EL* 9, A 5; B, x+2; *CCT* III 12<sup>a</sup>, 12; *BIN* IV 5, 23 and *ICK* 12, 10 ff.) From *TC* III 210, 24 f. it is learned that Pûšu-kên had also another daughter, a certain *Wa/u-qûr-tum* (variants *Wa/u-qur-tum* and *Ū-qûr-tum*: *BIN* IV 96, 3 and *Cont.* 9, 8), of whom we hear also in *TC* 21, *BIN* IV 21 and *CCT* III 41<sup>b</sup>+42<sup>a</sup>. To all appearances, the information found in *EL* 310 and 311 tallies with the contents of an unpublished letter mentioned by Landsberger, *Türk Tarih, Arkeologya ve Etnografya Dergisi* IV, 1940, p. 15, note 1. Unfortunately, it is impossible to rely on Landsberger's summary of the purport of this text in the Ankara Museum. For his contention that Ikû(n)-pâša figures there as a sister of Aššur-muttabil and Sînêa is incompatible with the data concerning Pûšu-kên's sons which can be gathered, e. g., from *EL* 321, 41-43 and *EL* 11, ll. 6 ff. and 15 ff. (see, besides *EL* I, p. 254 and *EL* II, pp. 31 and 61, note a, *KTHahn*, p. 12). Nor can we believe that the terminology of the text quoted by Landsberger differs so much from that of other Old Assyrian letters from Kaniš that it makes use of an idiom *\*\*ana rûqim nadânu* "auf lange Frist leihen" in circumstances in which, for instance, *CCT* IV 24<sup>a</sup>, 46 f. and *CCT* IV 49<sup>b</sup>, 15 ff. employ the well-known expression *a-na na-ru-qî-im nadânum*. In addition, it is difficult to see why Landsberger made no effort to determine whether or not the transactions known from *EL* 310 and 311 are the subject of that letter in the Ankara Museum, as we must suspect when learning from Landsberger's remarks that this text not only deals with four minas of gold owed to Pûšu-kên by Aššur-mâlik mēr Enna-Sîn but also refers to a document in which Sînêa declared having transferred to Aššur-muttabil his claims upon Aššur-mâlik mēr Enna-Sîn and upon Ennum-Aššur mēr Enna-Sîn. If the unpublished text should actually deal with the transactions recorded in *EL* 310 and 311, it would follow that the latter documents must be dated to the time after Pûšu-kên's death as must *EL* 11 and *EL* 244.



## TRACES OF PROPHETIC AGONY IN ISAIAH

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### ISAIAH'S LOVE FOR HIS PEOPLE

AMONG the criteria by reference to which a prophet recognized his prophetic word as divine, one sure index was the pain which its utterance caused him.<sup>1</sup> He knew by the hurt, that not he but another, that other whom he identified with God, was the source and prompter of his speech.

The struggle and the pain are clearly discernible in the literature attributed to the prophet Jeremiah. There, written "in common characters," is the agonizing contest between the irresistible demand that he denounce, and the love which entices him rather to pray for his people in Jerusalem. Jeremiah's "confessions" and elegies, his impulse to run away, to seek warm shelter in the womb — refuge in the grave, the insufficiency of tears to allay his affliction over the tragedy of the daughter of his people, all testify to the struggle and the hurt. Jeremiah was articulate (today we might say, he "verbalized" his distress) and we have no difficulty in recognizing the hurt in him — in Jeremiah.

Not so with Isaiah. Only the closest scrutiny of such words as Isaiah has left to us reveals in him a comparable struggle. Yet it is there, and a first impression is wrong. The appearance of eagerness in chapter six is misleading; "Here I am; send me!" is soon offset by another mood. The stern, grim, thin-lipped preacher is not the whole man; there are traces of a warfare which suggest another force at large in him. Although it is not transparently so, the pain of the struggle, the "prophetic agony," is present in Isaiah, even as it is in Jeremiah, his more articulate successor.

Four passages, interpreted, I hope, not too subjectively, lead to the conclusion that Isaiah had a tender heart — a tender heart which, to his hurt, his "voice" compelled him to deny.

<sup>1</sup> Cf. S. Blank, "Of a Truth the Lord Hath Sent Me" *An Inquiry into the Source of the Prophet's Authority, The Goldenson Lecture for 1955*, Hebrew Union College Press, Cincinnati, 1955, pp. 10 ff.



The first of the passages is a terse question which, in the midst of his experience of consecration he directs to God. He has no sooner volunteered: *הנני שלחני*, "Here I am; send me!" (6.8) than he appears to regret his readiness and soberly asks: *עד מתי*, "How long?" (6.11). And his question is not a *pro forma* question.

Hesitation is, to be sure, a recurrent feature in the several consecration scenes in the Bible. Moses demurs: "Who am I to go to Pharaoh and bring Israel out from Egypt?" (Ex. 3.11), and more explicitly in a parallel narrative: "Ah, Lord, I am no man of words, nor have been in times past since first you spoke to your servant, but am heavy of mouth and tongue" (Ex. 4.10). Gideon, the judge, under similar circumstances is similarly hesitant: "Ah, Lord, how should I deliver Israel, belonging, as I do, to the poorest family in Menasseh and being the youngest in my father's house?" (Judg. 6.15). Solomon, though king on his father's throne, yet confesses in prayer: "I am a mere lad, know not how to conduct myself, yet is your servant at the center of your chosen people, too many to number or count" (I Kings 3.7 f.). And Jeremiah speaks as Moses, Gideon and Solomon together: "Ah, Lord God, I know not to speak, being but a lad" (1.6).

The pattern, indeed, requires that the one who is called hold back and say he is unworthy or inadequate or unready; but Isaiah's question here is something else. For, he has already satisfied the requirements of the pattern, and a searing coal has satisfied his conscience (5 f.). With his question here, following upon that painful ritual, he goes on to a different matter. The horror of the undertaking now has dawned on him (9 f.), and asking: How long? he is not so much asking for his orders as giving expression to his dismay<sup>2</sup> and his distaste.

He is neither disparaging himself nor awaiting instructions; surmising the dimensions of the tragedy he is uttering a prayer. Isaiah's How long? is very like the desperate exclamations of several psalmists: "Return, Lord! How long? Have pity on your servants" (90.13); "How long, O God, shall the enemy scoff? How eternally long shall the foe profane your name?" (74.10).<sup>3</sup> It is quite the same, also, as the exclamations wrung from Amos, as in visions he contemplates similar calamities: "Lord God, forgive!" "Lord God, desist! How can Jacob survive, being so small?" (7.2 and 5). It is the same as Ezekiel's echo of Amos' words, when he likewise, in visions of judgment, surveys

<sup>2</sup> So Robert H. Pfeiffer, *Introduction to the Old Testament*, New York, 1941, p. 423.

<sup>3</sup> Cf. Ps. 79.5; 89.47; 13.2 f., and Hab. 1.2. Also S. Blank, "Men against God, The Promethean Element in Biblical Prayer," *Journal of Biblical Literature* LXXII (1953), p. 11.

the growing terror: "Ah, Lord God, are you bent on destroying the last remnant of Israel, that you exhaust your wrath on Jerusalem?" (9.8); "Ah, Lord God, are you bent on consuming the last remnant of Israel?" (11.13).<sup>4</sup>

The scenes of judgment at which Amos and Ezekiel are the horrified spectators picture the process of destruction far advanced — so far that each is worried lest none at all survive. And the frequency with which "How long?" in the Psalms is coupled with "eternally" (לנצח)<sup>5</sup> points in the same direction. Now, it is more than probable that Isaiah wrote down his "consecration vision" quite a while after the event itself, and that the narrative of his call in chapter six combines with original features of his vision (remembered since "the year that King Uzziah died") certain subsequent reflections on a seemingly futile ministry. If this be so, then his "How long?" may be such a reflection, and as such it is all the more meaningful. He could have become aware of the scope of the tragedy only as, disappointed, he recognized the failure of his mission. The question then, is not the question of an eager youth: How long, please Lord, may I work for you? It is, instead, the reflection of sober age: How long, O Lord, how long must I yet contemplate this tragedy, yet taste this bitterness?

It may well be that the writing down of chapter six was roughly contemporary with the occasion for another prophetic word which, too, suggests that Isaiah's compelling message was a source of grief to him. The other word is a part of a chapter commonly recognized as one of the latest if not indeed the last of his utterances. This is the twenty-second chapter (verses 1-5, 7-14), probably from the year 701, the year of Sennacherib's siege of Jerusalem. Other passages (e. g., 1.4-8) should probably be assigned to this same year but none of them is quite as late because only this word appears to have been spoken after Sennacherib broke camp and left for home. Here in the twenty-second chapter Isaiah does not join the jubilant throng in their mad celebration of this sudden relief, the vindication of their confidence (v. 1, 2a, 13), he still sees chariotry and horsemen about the walls; he still hears the cry of war at the gates, tragedy still lurks in the valley of his vision (v. 2b, 3, 5). In his ears God's oath still echoes: "This guilt

<sup>4</sup> One recalls the classic remark of George Adam Smith (prompted by Amos 7.2 and 5): "Never to a people came there a true prophet who had not first prayed for them." Specifically, as regards Amos, he observes: "For two moments — they would appear to be the only two in his ministry — his heart contended with his conscience, and twice he entreated God to forgive." Quoted from *The Expositor's Bible, The Book of the Twelve Prophets*, Vol. I, New York (1887 ff.), pp. 113 and 112; cf. also p. 87.

<sup>5</sup> Cf. Ps. 13.2; 74.10; 89.47.

of yours cannot be atoned before you die!" (v. 14). This scene, no less tragic to him because viewed by the inner eye and yet to be realized, is the cause and occasion for his own agonized cry at this very moment:

שען מני      אמרר בבכי  
אל תאיצו לנחמני      על שד בת עמי

"Avert your eyes; let me cry bitterly;

Seek not to console me for the tragedy of the daughter of my people" (v. 4).

This is the second of the four passages.

What we have here is not an Ezekiel sighing to attract attention (cf. Ezek. 21.11 f.); Isaiah is not "putting on an act." As for Ezekiel, he wants to be questioned, so that he can point the moral.<sup>6</sup> But Isaiah's is a private grief: "Avert your eyes."<sup>7</sup> He is not putting on an act, but neither is he weeping out of chagrin and disappointment. Were he a smaller man he might well feel chagrin. Overnight he has been discredited, and they who jeered at his gloomy predictions have been justified; at the last minute God shielded his city and temple.<sup>8</sup> But Isaiah is not small and this is not why he is disconsolate: "Seek not to console me" על שד בת עמי, "for the tragedy of the daughter of my people" — the tragedy now more surely than ever destined to overtake an obstinate people that wilfully plugs its ears.<sup>9</sup>

Usage supports the conclusion that not play acting or chagrin but true affliction wrung from him this bitter cry. For, it is in the same language as that which the prophet Jeremiah employs in his tenderest moments: בת עמי, "the daughter of my people" is almost only to be found in Jeremiah's elegies and the stylistically related book of Lamentations. For Isaiah's שד בת עמי Jeremiah says שבר בת עמי, and like Isaiah he cries when he thinks of it.

"Would my head were water, my eyes a spring of tears;

I would weep day and night for the slain of the daughter of my people"

(Jer. 8.23).<sup>10</sup>

<sup>6</sup> Cf., also, 12.9; 24.19.

<sup>7</sup> "Urge not your mad holiday upon me!" George Adam Smith, *The Book of Isaiah in The Expositor's Bible*, Vol. I, 1889, p. 314.

<sup>8</sup> We might question the word "hoped" in his comment but Hans Schmidt pretty well describes the situation in *Die grossen Propheten und ihre Zeit* (Vol. II, 2 of *Die Schriften des Alten Testaments*), Göttingen, 1915, p. 127: "die grosse Stunde, auf die er mit aller Kraft seiner Seele gehofft hat, ist nutzlos vorüber."

<sup>9</sup> Cf. B. Duhm in *Göttinger Handkommentar zum Alten Testament, Das Buch Jesaja*, Göttingen, 1922, p. 159: "(22.)<sup>4</sup> ist unerträglich affektiert, wenn er einem soeben erlebten nationalen Unglück gilt, bei dem alle betrübt sind, hingegen meisterhaft, wenn es sich um eine Prophezeiung handelt."

<sup>10</sup> Cf., also, 8.11, 19, 21 f.; 14.17; Lam. 2.11; 3.48; 4.3, 6, 10.

It is also Jeremiah who most closely approximates Isaiah's phrase: **אמר בבכי** "I will cry bitterly" — this when he refers, in 31.15, to Rachel's weeping for her children:

"Hark! in Ramah lamentation is heard,  
Bitter weeping (**בכי המרורים**),  
Rachel weeping for her children, inconsolable —  
For her children, because they are not."

That the combination "crying bitterly" and "the tragedy of the daughter of my people" occurs in elegiac passages in Jeremiah, lends the support of usage to the conclusion that also Isa. 22.4, by Jeremiah's less demonstrative predecessor, is an expression of true affliction.<sup>11</sup>

If we couple his desperate "Let me cry bitterly!" with his anguished question: **עד מתי**, "How much longer?" (6.11), we have, to be sure, not a great abundance but nevertheless some quite convincing evidence of tenderness in Isaiah, a tenderness which, as a "man of principle," he appears rather successfully to have submerged, sat upon, suppressed, lest it deflect him even for a moment from his prophetic course. Though he was at odds with an official religion of his day he was yet at one with his own religion and might recognize and check a personal heresy. In such a way a man preserves his integrity and holds his "self" together. — Nevertheless Isaiah had to deal with a dilemma.

### HIS DILEMMA

We become aware of the nature of Isaiah's dilemma only when we see how utterly desperate Isaiah thought his people's plight to be. What may appear to be a somewhat lengthy digression, a long pause before

<sup>11</sup> According to Rashi the grief of which Isaiah speaks was no minor lamentation. In 12.12 f. Isaiah says: "God called for weeping and mourning . . . and lo! joy and merriment . . . eating meat and drinking wine" and Rashi interprets: "Here you are feasting and making merry at a time when, if one may say so, the Holy One, blessed be he, himself is in mourning;" **הקב"ה כביכול אבל לפניו ואהם אוכלים ושמהים**. Similar is his interpretation of the words "Avert your eyes" in v. 4: **כך הקב"ה אומר: חדלו ממני**. **למלאכי השרה**, "It is the Holy One who is speaking. He says to his ministering angels, 'Leave me now!'" According to such rabbinic fantasy Isaiah's agony had heavenly dimensions. But Kimḥi recognizes that the words are Isaiah's, addressed to his would-be comforters.

Some among the more recent interpreters have credited Isaiah with genuine grief, especially J. Meinhold, *Jesaja und seine Zeit*, Freiburg i. B., 1898, p. 45: "So ist auch diesem grossen Manne der Schmerz des Elia, des Jeremia nicht erspart geblieben." More generally, and much earlier, August Knobel, *Der Prophetismus der Hebräer*, Zweiter Theil, Breslau, 1837, p. 193: "Er nimmt aufs Innigste Theil an den traurigen Schicksalen seines Volkes."

we note the two remaining passages, is a necessary demonstration that he successfully denied his love and admitted no hope at all.

The undiluted word of God according to Isaiah is unrelieved by any ray of hope. It marks no advance in this respect over the word of Amos. The eschatological "day" which God has in readiness (Isa. 2.12) is still darkness and not light (cf. Amos 5.20), still a day of total and irretrievable national defeat, as final as death.

But common opinion is inclined to deny this conclusion and hold that Isaiah conceived of a less than total disaster.

In part this opinion is the result of an evolutionary hypothesis which needs to find in Isaiah some advance beyond Amos and in the direction of Jeremiah, and thinks to find such an advance in an eschatology of some hope after all, the hope for a few survivors who will form a nucleus for a fresh start. But although, to be sure, this is a feature of biblical eschatology, the first Isaiah was neither its author nor did he endorse it.

In part the opinion is derived from an interpretation of the closing words of Isa. 6, according to the received text: *זרע קרש מצבחה*. One admits that the Greek has nothing corresponding to these words, but assumes an accident in copying which resulted in the loss of the phrase, making this assumption in order to avoid the more probable alternative: that the words are a post-Septuagintal gloss. But unquestionably the words are a gloss; they sound a note completely foreign to the rest of the chapter and its nearer context.<sup>12</sup>

In greatest part the opinion is the result of a misinterpretation of a name which tradition reports Isaiah gave his first-born son, the symbolic name She'ar Yashub, and of the assignment to this name of more than due importance. The name is mistaken to mean a "righteous remnant" or a "saving remnant," and it is thought to reflect a significant Isaianic doctrine. Reference is made again and again in current literature to Isaiah's "doctrine of the Saving Remnant" and his belief in "the survival of the spiritually fittest." Although this interpretation

<sup>12</sup> In 13b the thought is complete without the final phrase. The word *מצבחה* means "stump," and the word *שלכה* is a transitive verbal noun. The subject of the verbal noun is impersonal and the trees are the implied object: "When one fells them a stump of them remains." We do not, as the glossator assumed, need "a holy seed is its stump" to complete the thought. We need nothing more. V. 13a (where *בער* means "to burn" as it does in Isa. 44.15: what part of the tree is not required for the idol is consumed as firewood) supplies the conclusion. The whole verse means: "And when a tenth of it yet remains, it in turn shall be burned, as with the terebinth or the oak which when one fells them a stump of them remains." "And it in turn is burned as fuel" is the unspoken conclusion — a thought quite different from the one which the late priestly glossator supplied.



is widespread it is incorrect. The concept of a saving or a righteous remnant is foreign to the thought of the first Isaiah.

There is little reason to doubt that Isaiah named his son She'ar Yashub. That is not the issue. To be sure, the name occurs only once, and then in a passage (Isa. 7.1-12, 14-16) which, for quite other reasons, must be regarded as a prophet legend,<sup>13</sup> not by, but about Isaiah. Nevertheless, the legendary nature of the context does not make the name (in v. 3) a legend also. As a matter of fact, the occurrence of this ominous name in a context of comfort is best explained by the assumption that Isaiah's son really bore the name She'ar Yashub, and that the author of the legend called him by this name merely because it was his name. The son and his name may be taken for granted. Only the prophet's intent when he gave his son the strange name requires clarification.

The doctrine of a righteous remnant is well attested in the Bible. That also is not the issue. It is only that no relation exists between the name She'ar Yashub and the well attested but considerably later biblical concept of a "righteous remnant."<sup>14</sup> For three reasons any such presumed relation is open to doubt.

1) The name She'ar Yashub is a name of ill-omen. Isaiah had another son, whom he named Maher-shalal-hash-baz (8.3). What he meant by that name is suggested by God's charge to Assyria in 10.6: *לשלל שלל ולבוּ* *בו*, "to take spoil and gather plunder" from the godless nation Judah, the people that had invited God's wrath (cf. verses 11 and 12). It is not the two kingdoms, Damascus and Samaria, but Judah, with Jerusalem in her midst whose destruction Isaiah portended when he named his second son. (Isa. 8.4 is a misleading and misplaced variant of 7.16.) The similarly ominous import of the names of Hosea's children: Jezreel, Lo-ruhamah, and Lo-ammi, is obvious, and Isaiah only followed the lead of his slightly older colleague when he gave his own first-born the ominous name She'ar Yashub.

Emphatic by reason of its position, the substantive *שאר* connotes "a mere remnant," "no more than a remnant" and overshadows the predicate which for want of original context is obscure. Standing without context, the name as a whole, and not only the second element in the name, is obscure. Accordingly it is a wholly gratuitous assumption that the name had eschatological implications of any sort, of promise or of doom. It is quite as possible that the naming was topical,

<sup>13</sup> Cf. S. Blank, "Immanuel and Which Isaiah?" in *Journal of Near Eastern Studies*, XIII (1954), pp. 83 ff.

<sup>14</sup> Cf. S. Blank, "The Current Misinterpretation of Isaiah's *She'ar Yashub*" in *Journal of Biblical Literature*, LXVII (1948), pp. 211 ff.

an allusion to the anticipated outcome of a current happening.<sup>15</sup> (Whether it is to be interpreted according to 8.4 or according to 10.6, there is nothing eschatological about his brother's name.) Historical or eschatological, the name She'ar Yashub has an ominous sound, and Isaiah or any of his generation would be astonished to learn that we read comfort into his threat.

2) If Isaiah meant She'ar Yashub to suggest comfort or promise, if he meant reassuringly to say that indeed there would be a remnant (possibly it is reassuring to hear that one out of a hundred may survive a nearby atom blast), if Isaiah attached any such comforting significance to any such remnant, or thought of it as the seed of a new Israel, then it is more than strange that those parts of Isaiah's book which may with confidence be regarded as his own are completely silent on this important point. If ever Isaiah conceived such a hope it died a-borning.

It is here that one must exercise great caution to avoid arguing in a circle. Chapters 1 to 39 of Isaiah indeed contain many passages filled with eschatological promise, and, being the (eventual) product of literary prophecy, these passages frequently display the moral earnestness and the universalism of the prophet. The danger is real that one may first deny such passages to Isaiah and then illogically wonder at their absence. Isaiah's silence on the presumed significance of a presumably righteous and saving remnant may be the result merely of one's excessive zeal in analyzing away all evidence to the contrary. The risk is genuine and the caution necessary, but with proper caution the risk may be taken.

For reasons independent of the broader argument, the reference to a "seed of holiness" in Isa. 6.13 can be (and has been) recognized as a gloss.<sup>16</sup> So it is with the references to a "remnant" in 10.20-23;<sup>17</sup> out of context in the writings of the eighth century Isaiah these additions are perfectly at home in a different historical context. It is because of their immediate continuation in verses 19 and 20 that the conditional sentences in Isa. 1.18 must be understood as questions. That passage yields nonsense if they are taken as promises: "Though your sins be like scarlet they shall become white like snow." It is just such a proposition that Isaiah is questioning, as the immediately following alternative demonstrates.

Isaiah's silence in the matter of the remnant and its presumed sig-

<sup>15</sup> So *ibid.*, pp. 214 f.

<sup>16</sup> See above, p. 86.

<sup>17</sup> For the reasons cf. *op. cit.* ("She'ar Yashub"), pp. 211 f.

nificance is not the result of any arbitrary interpretation or suppression of contradictory evidence; it is genuine.

3) There is only one condition which conceivably could make the idea of a "remnant" tolerable for Isaiah. This condition is righteousness; only a righteous remnant could have a place in his thinking. According to Isaiah's manner of thinking a sinning people that could plead no merit must straightway perish. His monolithic mind with its simple paradigms had no place for the idea of his people's salvation without their antecedent regeneration. It is a proper instinct which wants to put the word "righteous" before Isaiah's remnant. Unfortunately, however, Isaiah's preserved writings nowhere associate with any remnant this one all-important element: righteousness. In the currently popular phrase "righteous remnant" — at least as far as Isaiah is concerned — the word "righteous" is a wholly indefensible importation.

For these several reasons it is a mistake to suppose that the idea of a remnant held any significance for Isaiah. Yet, one good reason carries more conviction than several. And this last is the best of the reasons. It would be well to rephrase it for emphasis. It is a syllogism:

A significant remnant for Isaiah could only be a righteous remnant.

But Isaiah never suggests that what, in any of his preserved words, might pass for a remnant possesses any special virtue.

Consequently, Isaiah can have attached no significance as a remnant to such chance remainders as he mentions here and there.

Moreover, in all probability, when Isaiah gave his son a name which alludes to a remnant, he referred to what was a stage only in a process, of which he knew total doom to be the end. Indeed, Isaiah several times suggests that the judgment might unfold by stages. He does so in 9.7–20 plus 5.25–29, a composition in several stanzas, each episode in which concludes with the thought: Despite all the affliction that God has brought hitherto, his anger is not yet appeased and his hand still poised for punishment. He does so, as well, in the words in the consecration vision (6.13a): *ועוד בה עשריה ושבה והיתה לבער*. Clearly, here, the point at which a tenth remains is only a stage in the process of total destruction — the penultimate stage; there is no promise in the pause. In this latter passage Isaiah may be echoing Amos 6.9: If ten men be left in a house they shall die; possibly also he is echoing Amos 5.3,<sup>18</sup> if there the prophet means to describe a people progres-

<sup>18</sup> Note there also the root *שאר*.

sively reduced by calamity to a decimal of its former population until, in the end, none survives.<sup>19</sup> Since a remnant is people, after all, the name *She'ar Yashub*, though ominous, does not imply total destruction. This is correct, but, judging from his other expressions of finality, Isaiah can only have had reference to a stage in, and not the end of, the process when he named his son *She'ar Yashub*.

And Isaiah lived too soon — a hundred years too soon — for the idea of a righteous remnant. The idea belongs to Jeremiah. In special and personal words Jeremiah promised survival to a faithful few: to the Rechabites for their demonstrated constancy (Jer. 35), to Baruch, the prophet's friend who shared his lot as fugitive (Jer. 45), to the Ethiopian, Ebed-melech who rescued him from the pit. Through Jeremiah God says to Ebed-melech: "I will deliver you, you will not fall by the sword; you will come away with your life **כי בטחת בי**, because you trusted in me" (39.18). This — in Jeremiah, and not in Isaiah — is the selective judgment which spares a righteous few, something quite different from the chance scraps and tatters that Isaiah, the artist, now and then mentions, but only as highlights on his canvasses depicting desolation; for, no drawing of the wake of a forest fire would be effective without the lone tree among the charred ruins — the one which a chance gust has spared (cf. Isa. 30.17). To Isaiah as to Amos the impending day of judgment is unselective. Are the piece of an ear and the shankbones of Amos' ravaged sheep righteous and therefore left over (Amos 3.12)? Are they not rather the shepherd's mute evidence that the sheep is dead (cf. Ex. 22.12)?<sup>20</sup> What special virtue had or have the bits of Isaiah's smashed vessel, too fragmentary for any use (Isa. 30.14)? Did the three or four olives remain on the beaten tree (Isa. 17.6) in accordance with some principle of "the survival of the spiritually fittest?" Isaiah had no "doctrine" of a "remnant," "righteous," "saved," "saving," or what you will. What he had was a superb power of literary expression — this and a cruel dilemma.

For, without a single element of hope his message was in desperate conflict with his own desires, his love for the people he was doomed to condemn.

<sup>19</sup> Jer. 44.7 f., 26 f. illustrate the threat that even a last remnant might perish. The Judeans already reduced to a fraction by successive blows (597, 586, and the excesses attendant upon the murder of Gedaliah) are a **שארית** in Egypt, and Jeremiah threatens even them.

<sup>20</sup> As bride-price for Michal Saul demanded of David similar evidence of the death of a hundred Philistines (1 Sam. 18.25 ff.).

## HIS FLIGHT TO PARADOX

There are two interrelated passages which are best understood as the strange fruit of this conflict. And these are the two remaining passages of the four which have a bearing on the theme of "agony." What these two have in common is Isaiah's quite unexpected concern that his message be preserved. In the one in chapter eight (v. 16) he contemplates preserving his teaching and his testimony in a living receptacle, his disciples, in the other, in chapter thirty, inscribed on a tablet or book. The latter is the more striking and throws light on the former:

עתה בוא כתבה על לוח אהם      ועל ספר חקת  
ויהי ליום אחרון      לעד עד עולם

"Now go, write it on a tablet for them, inscribe it in a book,  
That it may be for a latter day, serve as an eternal witness" (v. 8).<sup>21</sup>

This verse in chapter 30 not only explains the passage in chapter 8, but I suspect that it also reveals more of the prophet Isaiah than he realized or intended. It explains the disciples — their function was to keep Isaiah's word alive for later generations. It stands as his protest against mortality. And it admits the suspicion that Isaiah could himself be guilty of what he most deplored in his contemporaries: the fatal habit of burying disturbing thoughts, putting them out of mind. Isaiah now has banished his own obsession; as the people do, so even he has blocked out the unpalatable truth.<sup>22</sup>

The preservation of his message as a witness for other generations could have meaning for him only if he could blissfully forget that there will be no other generations. God's demand overpowered him so (Isa. 8.11), that, barring two moments of weakness: How long? — Seek not to console me! — all we have of Isaiah is denunciation and judgment. With consequence and without deviation he followed through to the bitter conclusion, and foresaw such destruction that, if a tenth remained, not even it would escape, it would be uprooted and burned like the stump of a felled tree.<sup>23</sup> Nor was he to be misled by the mere lifting of a siege; only death would expiate.<sup>24</sup> For him, as God's prophet, total meant all and final meant the end.<sup>25</sup> And it is quite

<sup>21</sup> Reading לעד, which detail also relates this passage to 8.16 (תעודה).

<sup>22</sup> When Jeremiah purchased a field, though the fall of Jerusalem was imminent, and provided for the preservation of the deed of purchase (Jer. 32.6–15), his behavior was not so irrational as Isaiah's. For, unlike Isaiah, Jeremiah had conceived the possibility of the survival of a faithful few.

<sup>23</sup> Isa. 6.13; cf. Amos 6.9.

<sup>24</sup> Isa. 22.15; cf. 5.6a *alpha*, reading ואשביחיהו.

<sup>25</sup> Cf. Amos 8.7b: . . . אם אשכח לנצח.



unreasonable to be concerned for the welfare of such as remain after a total disaster. Any reasonable man knows that beyond all there is no remainder, beyond the end no "after."

Out of unshakable conviction the prophet, wholly devoted to his God, permitted himself no tenderness towards Israel — none officially. But such was the consequent agony that this love denied could lure him into slippery places and avenge itself. That is how he came to preserve his message — among his disciples — inscribed in a book. The pain of the conflict was the source of his paradox: Isaiah wrote his book and instructed his disciples for the good of a generation that he knew was not to be. And, conversely, the preservation of his words, because it was an irrational act, is evidence of his agony.

There is not much of it, indeed, but there are traces in Isaiah of prophetic agony, traces enough to suggest that even before Jeremiah, a prophet knew the painful tension between what he must speak and what he would. And perhaps Isaiah also learned in this way to differentiate between his own wish-thoughts and the authentic word of God.

## THE TWO STRATA IN THE EDEN STORY

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THE story of the Garden (Gen. 2.4b–3.24) is certainly one of the best known, most appreciated, and religiously most influential of the biblical stories. Gunkel calls it “the pearl of Genesis,” Skinner “an immortal allegory,” and Edward Robertson “one of the greatest pieces of Hebrew literature.” This appreciation, however, does not imply that the masterpiece has been satisfactorily analyzed and interpreted.

The difficulty lies in the composite character of the story as we now read it in the Hebrew text. Although the story has been ascribed to the Yahwist master narrator, there is no doubt that the story as a whole, in its present form, cannot be the work of one author. Prominent critical scholars have found numerous duplicates and contradictions, and attributed these to two strands of tradition or to two sources. But if a redactor tried to harmonize conflicting traditions or sources, the question arises: Why did he not do a better job? The following attempts to find a satisfactory answer.

Before we list the duplicates and contradictions which suggest a diverse authorship, we must dismiss those cases which can be better explained differently:

1. In 2.6 read **וְאֵד לֹא עָלָה** instead of **וְאֵד יָעָלָה**, in harmony with 2.5 (Yahweh had not caused it to rain).
2. In 2.8a read **גֵּן בְּעֶרְבַן מִקְדָּם [הַיָּם]** garden in Eden in the east [of the sea]. Man had access to the garden only on the east side, in harmony with 3.24 and 4.16.
3. In 2.8b read **לִשְׂם** instead of **וַיִּשְׂם**. It expresses God's intention, whereas v. 15, “God put him in the garden,” expresses the event.
4. In 3.18 read **וְאֹכְלֵם** instead of **וְאֹכְלָה**. Thorns and thistles will eat up the plants of the field. “Field” means tilled field, as in Ex. 21.4, 5, not an open steppe. Vv. 18 and 19 refer to peasants and not to nomads. **עֹפֶר** in 3.19 means clay, soil, dirt (Cassuto), a special material of the ground, see 2.7. The ground **אֲדָמָה** consists of various elements, of which **עֹפֶר** is one.

This is the list of the true duplicates and contradictions:

1. *A* knows only one forbidden tree, the עץ הדעת (2.17; 3.11). *B* knows two forbidden trees: the עץ החיים and the עץ הדעת (2.9; 3.22).
2. *A* says that God made garments of skin for the man and his wife and clothed them, after the expulsion (3.21). Before the expulsion, they were naked (3.10).  
*B* says that they sewed fig leaves together and made themselves aprons after eating the forbidden fruit, but before they heard Yahweh's voice (3.7).
3. *A* notes that the tempter was the tree and its fruit. "The woman saw that the tree was good for food, and that it was a delight to the eyes" (3.6). The woman obviously succumbed to the temptation of the senses.  
*B* adds a second tempter, the shrewd serpent, who foretold the good effects of eating the forbidden fruit. The woman was won over by a shrewd argument. *B* also added ונחמד העץ להשכיל, "The tree was to be desired to make one wise." This must have been an addition for, if original, it would have read ונחמד להשכיל without repeating the העץ.
4. *A* represents Yahweh as friendly even to sinners: "Yahweh made garments of skin for the man and his wife" (3.23).  
*B* represents God as angry and afraid, expressing to his heavenly fellows his fear that man may eat of the tree of life and become immortal. Therefore, "He drove out the man" and barred the access to the garden through terrifying, well-armed, heavenly guardsmen, the cherubim (3.24).
5. *A* considers death a general human fate: "For dust thou art, and to dust shalt thou return" (3.19); not punishment for eating the forbidden fruit.  
*B* warns that "in the day that thou eatest thereof thou shalt surely die" (2.17)
6. *A* uses the word ערום only in the meaning of "naked" (2.25; 3.7, 10). Before the eating of the forbidden fruit nakedness was natural and not indecent (2.25).  
*B* uses the word with the additional meaning of "shrewd" (3.11), thus relating nakedness to shrewdness, sensuality to inquisitiveness.

A careful study of this list leads to the assumption that *A* and *B* must have been two Hebrew writers of different intellectual, moral, and

religious outlook. *A* is more rational, humane, and enlightened, and more remote from the world of mythology and paganism than *B*. While *B*'s God, surrounded by heavenly fellows and attendants (3.5, 22), is angry and afraid and envious of man's rise, the God of *A* is helpful, and acts alone (2.7 ff.; see also 6.7; 8.21b). In contrast to *B*, the record of *A* keeps clear of speaking animals, devilish and accursed, of irate and envious gods, of terrifying monsters, and of bloody retribution.

Gerhard von Rad (*Das erste Buch Moses* 1-12/9, 2nd ed., 1950, p. 63) remarks that the substantival infinitive, followed by an object, is very unusual in Hebrew grammar. Therefore it is more than probable that the forbidden tree in *A* was called only עץ הדעת and that the attributive "of good and evil" was added later, probably by *B* (see 3.6c). דעה comes from ידע and means "to be concerned, to care, to love" (as in 4.1; 18.19). The forbidden tree of *A* was therefore a tree of love, that is, a tree whose fruit stimulates the desires of sex, and not a magical tree of comprehending good and evil. Such a tree of love was known to the Hebrews (30.14-16). Apparently *A* tried to keep his story clear of all mythology and magic.

To *A* the origin of man's evil nature is to be found in man's sensuality, in his mental immaturity. The remedy would be education and training through labor and through the travail of childbirth (3.16-19). To *B*, however, it is just this critical intellectuality that is suspect, because it undermines authority and submissiveness. Since *B* stresses reverence and decorum, he cannot allow the man and his wife to stand before God naked. Therefore he interpolates that, before they spoke to God, they made themselves aprons of fig leaves.

3.16 begins אֵלֹהִים אָמַר. If that were Yahweh's second speech, the text would have read וְלֹאֲשֶׁה אָמַר, as in v. 17, וְלֹאֲדָם אָמַר. Apparently the original had אֵלֹהִים אָמַר יְהוָה אֵלֹהִים; the annotator had left אֵלֹהִים אָמַר and added אָמַר. This would confirm that the serpent episode was secondary. The four Elohim in the serpent story, instead of the generally used Yahweh, may also point to a second source.

Although the theology of *B* is cruder than that of *A*, the original narrator must have been *A*, for we can omit *B* and have a coherent story, but if we omit *A*, we have only incoherent fragments.

From all this it follows that the Eden story, in its present form, is not a blend of conflicting traditions or sources, made by an awkward and unintelligent redactor who was unable to harmonize the discrepancies. Instead, we have the basic document of a humane, enlightened, anti-pagan, and anti-mythological narrator whose record was revised by someone theologically more conservative.

Before we reconstruct the basic document, we have to preface the following considerations:

- 1) I assume, with most of the critics, that the description of the four rivers (2.10b-14), with its fantastic geography, was a later interpolation.
2. Since the story always speaks of the man and his wife, even after 3.20, the verse, "And the man called his wife's name Eve, because she was the mother of all living" (v. 20), was not in the original.
3. The Elohim, added to Yahweh throughout the whole Eden story, is secondary and stems probably from the Elohist priestly annotator who added the Creation story of the first chapter, the genealogies of chapters 5 and 11, and completed the Flood story.
4. In 3.8, "They heard the voice of Yahweh moving in the garden," the word "moving" refers to "the voice of Yahweh" (=thunder, as in Ps. 29), and not to Yahweh himself; for otherwise the man would have said: "I saw Thee" and not "I heard Thy voice" (3.10). For לָרוּחַ הַיּוֹם I read, with Kittel, לָרוּחַ הַיָּם (with the west wind), as in Ex. 10.19.

Omitting *B*, the original story of *A* ran:

Yahweh formed man out of dust from the ground and breathed into his nostrils the breath of life so that man became a living being. And Yahweh planted a garden in Eden, in the east of the sea to put there the man whom he had formed. And, out of the ground in the garden, Yahweh caused to grow every tree that is pleasant to the sight and good for food. And a river flowed out of Eden to water the garden.

Then Yahweh took the man and put him in the garden of Eden to till it and to keep it. And Yahweh commanded the man, saying: "Thou mayest eat of every tree of the garden; but of the tree of love thou shalt not eat." Then Yahweh said: "It is not good that the man should be alone; I will make him a helper fit for him." So, out of the ground, Yahweh formed every beast of the field and every bird of the air, and brought them to the man to see what he would call them; and whatever the man called every living creature, that was its name. The man gave names to all cattle, and to the birds of the air, and to every beast of the field; but, for the man, there was not found a fit helper.

So Yahweh caused a deep sleep to fall upon the man and, while the man slept, Yahweh took one of his ribs and closed up its place with flesh; and the rib which Yahweh had taken from the man, he made into



a woman, and brought her to the man. Then the man said: "This at last is bone of my bones, and flesh of my flesh; she shall be called Woman, because she was taken out of Man." Therefore a man leaves his father and his mother and cleaves to his wife, and they become one flesh.

And the man and his wife were both naked and were not ashamed. And the woman saw that the tree was good for food and that it was a delight to the eyes. So she took of its fruit and ate; and she also gave some to her husband, and he ate. Then the eyes of both were opened, and they knew that they were naked.

Then they heard the voice of Yahweh, moving in the garden with the west wind, and the man and his wife hid themselves from the presence of Yahweh among the trees of the garden. But Yahweh called to the man and said to him: "Where art thou?" And he said: "I heard Thy voice in the garden, and I was afraid, because I was naked; and I hid myself." God said: "Who told thee that thou wast naked? Hast thou eaten of the tree of which I commanded thee not to eat?" The man replied: "The woman whom Thou gavest to be with me, she gave me the fruit of the tree, and I ate."

Then Yahweh said to the woman: "What is this that thou hast done?" The woman answered: "It<sup>1</sup> lured me and I ate." Then Yahweh said to the woman: "I will greatly multiply thy pain in childbearing; in pain thou shalt bring forth children, yet thy desire shall be for thy husband."<sup>2</sup>

And to the man he said: "Because thou hast listened to the voice of thy wife, and hast eaten of the tree of which I commanded thee, 'Thou shalt not eat of it,' cursed be the ground for the sake of thee. With hardship thou shalt work on it (read תעבדנה for תאכלנה) all the days of thy life. Thorns and thistles it shall bring forth to thee; and they shall eat up the plants of the field. In the sweat of thy face thou shalt eat bread, till thou return to the ground, for out of it thou wast taken. Thou art dust and to dust thou shalt return."

And Yahweh made for the man and his wife garments of skin and clothed them. Then Yahweh sent him forth from the garden of Eden to till the ground from which he was taken.

In this reconstructed garb, the story of the Garden is an harmonious masterpiece of early Hebrew wisdom literature; colorful, dramatic, suggestive; profound, humane, true to life; rationally enlightening and

<sup>1</sup> In Hebrew "he," which refers to the tree or the fruit, both masculine in Hebrew.

<sup>2</sup> The loosely appended final clause "and he shall rule over thee" was probably added by the more authoritative *B*, since *A* stresses the idea of partnership between man and woman (2.18, 20, 23, 24; 3.6, 8).

spiritually elevating; a veritably imperishable gem, like the story of the First Murder, or that of Noah's Vineyard, or that of the Tower or like Jotham's fable. The story of the Garden, taken from folkloristic material, which sought to explain the origin of man and woman, of sex and of clothes, of hard labor and of the pangs of travail, was intended to teach that, for man, the hard way in life was better than the easy way.

The conservative priestly reviser missed, in the record, some colorful traditional and popular features such as the shrewd serpent, the terrifying cherubim, and the magic tree of life; and so he restored these features. He did not realize that the original author omitted these half-mythological features designedly to spiritualize the religion of Yahweh.

Who was the narrator *A* and the reviser *B*?

Space allows only some brief and succinct remarks. These questions may be solved with reference to the Pentateuchal research of the author. In his books *The Birth of the Bible — A New Approach* (1950, Reconstructionist Press, N. Y.) and *The Growth of the Pentateuch — A Literary, Sociological and Biographical Approach* (1955, Twayne Publishers, N. Y.) he has suggested the following theory of the origin of the Pentateuch:

1. Its basic Yahwist document was written in the Davidic-Solomonic period. This Protopenateuch was revised by the priests and annotated in the ninth century by the northern prophetic Elohist (E) and the southern priestly narrator (Pn).
2. The author of the Protopenateuch was a literary genius, a humane and critical thinker. His style is original, lucid, picturesque, dramatic and terse.
3. Yahweh is to him the oldest and only God of the World, its Creator and Ruler. Yahweh is humane, righteous, patient, non-vindictive, and non-violent, and without fellows. Yahweh protected Cain after he repented, and forgave Israel (Ex. 34.6).
4. Yahweh has sympathy for all suffering creatures and wants peace among men. Japhet shall dwell peacefully with Shem. Abraham prays for Sodom, avoids strife with Lot (= Moab-Ammon), makes a peace-treaty with the Philistines, so becoming "a blessing to all families of the earth." Jacob attains reconciliation with Esau (Edom) and with Laban (Aram), and Joseph with his brethren. Israel avoids war with Edom.
5. The author repudiates mythology and magic, stands for a spiritual worship of Yahweh by invocation without the slaughtering

of animals. The author is critical of priestly rule and institutions. Levi's fanaticism is condemned. Under the priest Aaron, the people fall back into idolatry and immorality. Israel shall become a nation of priests, that is a nation without a priestly caste.

6. Before the book could be accepted as a textbook for priests, it had to be revised. The priests missed and restored:
  - a. priestly views: The Fathers founded (not visited) the famous shrines of Canaan, by building altars there.
  - b. colorful, popular, even if half-mythological traditions: Sons of heaven married daughters of man (to avoid the incestuous origin of man).
  - c. supernaturalistic elements: Yahweh appears in person on the top of Sinai (no volcanic eruption), in pillars of fire and cloud, writes the law on stone tablets.
  - d. more decency: Judah goes to Tamar after his wife's death. Rebecca goes with the servant, chaperoned by a nurse.
7. The bloody era of David's reign (wars without and within) may have challenged the author to write his book in order to make his pupil Solomon a peaceful, just, and wise ruler.
8. The author was presumably the prophet Nathan, David's spiritual adviser and Solomon's teacher. Nathan is recorded as moralist (and not as a ritualist like the seer Gad). He opposed the building of the temple ("God builds a house to man, not man to God"). This proves that Nathan was an enlightened, unpriestly, critical man. His parable betrays deep sympathy for suffering creatures. He appealed to the king's judgment. God forgave repentant David (2 Sam. 12.13).
9. Nathan was the leader of a people's party opposed to the militarist-aristocratic party of Joab, Abiathar, and Adonijah. While Adonijah made himself king by "slaughtering oxen, fatlings and sheep in abundance," Solomon was hailed king by the people without a bloody ritual. He was inducted by anointment and music, by the bloodless ritual of the prophetic movement.

Our analysis of the story of the Garden is in full harmony with the suggested theory. Accordingly the narrator *A* was the prophet Nathan, while the reviser was either Abiathar himself or one of his followers.



## JERUSALEM — 485 B. C.

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### I

#### NEHEMIAH'S GRIEF AND ITS CAUSE

NEH. 1.1-3 tells that in the month of Kislev of the twentieth year, i. e. the twentieth year of Artaxerxes I of Persia, 445/444 B. C., Hanani, one of his brothers, together with certain men of Judah, came to Nehemiah in Susa, the Persian capital. The narrative<sup>1</sup> then continues: And I asked them about the Jews, viz. the remnant which was left from the captivity, and about Jerusalem. And they said to me: The survivors who are left from the captivity there in the province are in very unfortunate state and in disgrace, and the wall of Jerusalem is breached and its gates are burned with fire. And when I heard these words I sat down and wept and mourned for many days.

Now why should Nehemiah have grieved so bitterly at this report of the sad condition of Jerusalem and its inhabitants? The customary interpretation is that this unhappy state of the city and its population was due to the destruction of Jerusalem by the Babylonians under Nebuchadnezzar in 586 B. C., one hundred and forty-one years previously. It is true that both II Kings 25.9-11 and Jer. 52.13-15<sup>2</sup> tell that in 586 B. C. Jerusalem was destroyed completely, its walls were laid in ruins, and its population was carried into exile. The city was then, so it would seem, utterly depopulated. And just this does seem to be likewise the picture of the state of Jerusalem in 445 B. C.<sup>3</sup> Quite significantly, the words of Hanani imply that such population of Judah as did actually exist at that time was resident in the province, i. e. in the rural districts rather than in the city itself. And that such was indeed the case is attested by the later procedure of Nehemiah, recorded in Neh. 11, to repopulate the city by drafting one tenth of the rural population to dwell therein.

Nevertheless, despite the undeniable fact that at first glance the

<sup>1</sup> Undoubtedly from the Memoirs of Nehemiah.

<sup>2</sup> Both passages of course quoting the same source.

<sup>3</sup> Cf. Neh. 9.36-37; Ezra 9.9.



picture of the desolation of Jerusalem in 445 B. C. seems to accord completely with the account of its destruction in 586 B. C., it is inconceivable that Nehemiah should have grieved so bitterly because of a condition which, if it had begun in 586 B. C., would by 445 B. C. have endured uninterruptedly for one hundred and forty-one years and would certainly by that time have become completely normal and conventional, and with the distressing circumstances of which he would himself have been so thoroughly familiar that the report of Hanani and the men of Judah could have added little or nothing to his knowledge thereof.<sup>4</sup> Obviously Nehemiah had awaited from this delegation from Judaea an altogether different and a far more favorable report. He had, it is quite plain, confidently expected to hear that the physical and economic circumstances of Jerusalem and of the people of Judah had improved in distinct and positive manner. It was unquestionably his bitter disappointment at receiving a report the very opposite to that which he had so eagerly anticipated, a report which told him that the city was in as ruinous a condition and the people of the province as unhappily situated as ever, which occasioned his extreme grief. Manifestly he had assumed, and undoubtedly upon adequate grounds, that within quite recent times something had transpired, or should have transpired, in Jerusalem and in Judah to change and improve to a marked degree the previously lamentable state of both city and people.

It is equally inconceivable that during these entire one hundred and forty-one years Jerusalem should have remained depopulated and in ruins, just as it had been left in 586 B. C. It is true that Zech. 1.14-17; 2.5-9; 7.7; 8.1-8 picture Jerusalem as greatly, if not completely, depopulated in 520 B. C., undoubtedly still as the result of the destruction by the Babylonians in 586 B. C. But the prophet likewise predicts with implicit faith the speedy and extensive repopulation of the city so soon as the Temple will have been rebuilt and dedicated. And it is impossible that, once it was in normal use, the second Temple should not have attracted a fairly considerable population to Jerusalem and have necessitated at least a modest rebuilding of the city in the period following immediately upon its dedication in 516 B. C. Ps. 48, granting that it comes from the period 516-485 B. C.,<sup>5</sup> proves conclusively that

<sup>4</sup> Sellin (*Serubbabel*, 50 ff.) reasoned along the same lines and reached a similar conclusion; so also, and more cogently, Rowley, "The Chronological Order of Ezra and Nehemiah," in *Ignace Goldziher Memorial Volume* (1948), I, 129; "Nehemiah's Mission and Its Background," *Bulletin of the John Rylands Library*, XXXVII (1955), 528 f.

<sup>5</sup> Cf. Morgenstern, "Psalm 48," *HUCA* XVI (1941), 1-95.

during this period not only was Jerusalem inhabited, but also that it must have been a city of not a little wealth and grandeur, with majestic buildings and even encompassed by a turreted wall, precisely as we would expect of a city which was the metropolis of a Persian province or sub-province and the center of the ritual practice of Judaism, the residence of its officiating priesthood, and the goal of the annual festival pilgrimages of Jews from various foreign lands.

But if the conclusion drawn from this evidence be correct, then it follows unmistakably that after the dedication of the second Temple in 516 B. C. Jerusalem must have been, at least for a time, a fairly prosperous and populous city. Accordingly it would follow further that the destruction and depopulation of Jerusalem and the ruinous condition of its walls and gates, because of which Nehemiah grieved so bitterly, must have been the result of some experience other than, though in almost every respect apparently quite similar to, and at least as cataclysmic as, that of 586 B. C. This catastrophe must have befallen Jerusalem at some time after, though of course not immediately after, 516 B. C.; for naturally it must have remained a fairly populous and important city for a reasonable number of years after the dedication of the second Temple. Is there any evidence of a second catastrophe of this character having befallen Jerusalem; and if so, just when and under what circumstances did it transpire?

Furthermore, what is the precise meaning of the term which Nehemiah employs, *hap'leṭah 'ašer niš'aru min hašebî*, "the remnant which were left from the captivity"? What captivity could this have been? This too is usually interpreted as referring to the Babylonian exile;<sup>6</sup> and it must be conceded that not infrequently *haš'bî* is used in the Bible with reference to this particular historic circumstance. But the remnant which Nehemiah envisaged was a present remnant, of his very own day. This is evidenced also by Ezra 9.7-9. And if Jerusalem had been rebuilt and repopulated and had been fairly prosperous for a time, even though relatively brief, following upon 516 B. C., then it follows that the captivity in question can not have been the Babylonian exile at all, but must have been one resulting from a second destruction and depopulation of Jerusalem, a second destruction and depopulation which, with reference to Nehemiah's time, was indeed relatively recent. And this consideration carries with it the further implication, that this second destruction of Jerusalem must have been attended, just as was the first, by a deportation of a

<sup>6</sup> Cf. the fruitful discussion of this question in Batten, *The Books of Ezra and Nehemiah* (ICC).

considerable portion of the population, not merely of the city itself, but also of the entire province of Judah.

And since Nehemiah speaks of "the remnant which were left from the captivity," a meaningful expression indeed, we must infer that this second deportation carried away a much larger percentage of the people than did the first deportation. For Jer. 52.28-30 records explicitly that in the three deportations by the Babylonians, in 597, 586 and 581 B. C., a total of only forty-six hundred persons were carried away.<sup>7</sup> It must have been accordingly the tremendous slaughter during the Babylonian wars and the very high death rate during the siege which depopulated Jerusalem at that time rather than the deportation itself; and this circumstance would hardly have justified Nehemiah's term, "the remnant which were left from the captivity." Furthermore, II Kings 25.12 and Jer. 52.15 record that the Babylonians allowed at least a portion of the rural population to remain resident in the land; and this is also the unmistakable implication of the appointment of Gedaliah as governor after the fall of Jerusalem.<sup>8</sup> And by 520 B. C. these Jewish peasants of Palestine must have become reasonably secure and prosperous once again, as the picture in Hag. 1.4, of their dwelling in ceiled houses, clearly implies.<sup>9</sup> But as Nehemiah's words indicate unmistakably, this state of at least reasonable security and prosperity must have terminated suddenly with a second destruction of Jerusalem and the attendant deportation of a very large section of the people. And this second deportation must have included not only the people of the city but also the rural population, so that now not only was the city completely depopulated but also even in the rural districts only a remnant was left from the captivity. These considerations too point to the conclusion that the destruction of Jerusalem and the deportation of the people, for which Nehemiah mourned so bitterly, could not have been at all those of 586 B. C., one hundred and forty-one years before the distressing report came to Nehemiah, but must have been another, later, quite similar, and perhaps even more extreme and catastrophic experience, which transpired at some time after 516 B. C.<sup>10</sup>

One other significant consideration; it is apparent that Nehemiah had had good reason to believe that a project of some kind had been

<sup>7</sup> However, there are other Biblical passages which suggest a somewhat larger deportation (II Kings 24.14; 25.11; Jer. 40.10; 52.15); and indeed this does seem more probable; cf. below, note 100.

<sup>8</sup> II Kings 25.22 f.; Jer. 40.7, 11.

<sup>9</sup> Of course the successive years of inadequate crops near the end of the exilic period, to which Hag. 1.6, 9-11; Zech. 8.10-11 refer, constituted only a temporary misfortune, but did not permanently affect the general well-being of the people.

<sup>10</sup> So also Ewald, *Geschichte Israels*, IV, 155 f.; Sellin, *op. cit.*, 50 ff.

under way, a project with which he was fully acquainted and in which he had complete faith, directed to the end of restoring Jerusalem, rebuilding its walls and gates, and rehabilitating the sorely stricken little people, "the remnant which were left from the captivity." He had confidently expected that this project would be carried out successfully. And now when the report comes to him in trustworthy manner that the project has failed completely, and that the Jewish population of the Judaeian province continue in the same distressed and pitiful state as before and that the walls and gates of Jerusalem are still in ruins, he is keenly, bitterly disappointed and his grief almost overpowers him. This disappointment at the failure of this project to restore Jerusalem and rebuild its walls explains likewise his own subsequent procedure, his determination to undertake this task himself and the decisiveness of his program when finally he comes to Jerusalem, and particularly his completion of the walls with utmost speed as his very first administrative act.<sup>10a</sup> Obviously he anticipated that those same forces which had defeated the first undertaking of this task would attempt to defeat his own efforts also and in precisely the same manner as before. Therefore the only way in which their hostile purposes could be forestalled and his undertaking achieve its goal would be through his completing the rebuilding of the walls with utmost speed, before the matter could be reported to the king and the project be halted once again by royal decree in the same manner presumably as had the earlier project. Plainly then this initial attempt to restore Jerusalem and rebuild its walls could have preceded the report to him of the failure of the project at the end of 445 B. C. by only a few years at the very most, if even by that much.

## II

### TESTIMONY FROM THE BOOK OF LAMENTATIONS

Further light upon this presumptive second destruction of Jerusalem and deportation of its inhabitants is shed by the Book of Lamentations. Popular tradition long ascribed this book to Jeremiah,<sup>11</sup> and accordingly identified the destruction of Jerusalem and the dispersion

<sup>10a</sup> So also Rowley, "Nehemiah's Mission," 559.

<sup>11</sup> For the customary dating of Lamentations in the period, 586–538 B. C. and its correlation with the destruction of Jerusalem by the Babylonians and the end of the Jewish state in 586 B. C. cf. Eissfeldt, *Einleitung in das Alte Testament*, 543–550; Pfeiffer, *Introduction to the Old Testament*, 720–724.

of the people which it records with the national catastrophe of 586 B. C. And even though there is today a growing tendency among Biblical scholars to question the Jeremianic authorship of Lamentations, none the less the opinion seems to prevail almost as strongly as ever that it can be only the bitter experiences of the Judaeen nation in 586 B. C. which the book bewails. This opinion is due of course to the fact that thus far nothing whatever is known of any other national catastrophe which befell Jerusalem and the Jewish community of Palestine in the period between the Babylonian conquest and the time of Nehemiah comparable in any way to that of 586 B. C. Moreover, this conclusion seems borne out fully by the reference in 4.20 to the capture of the Lord's anointed one by the ruthless enemy; for to whom, other than Zedekiah, so at least first thought suggests, could this possibly refer? And actually this v. does seem to summarize the account of the capture and fate of Zedekiah, as recorded in II Kings 25.4-7 and Jer. 52.7-11. But occasionally history does repeat itself, at least in some measure, as we will see.

The following is the picture which the Book of Lamentations portrays. Jerusalem had been a city, majestic and proud, with the Temple in its midst and with magnificent palaces and strong walls, a metropolis among the nations, a queen among the provinces (1.1).<sup>12</sup> It was being ruled by its own king, undoubtedly a descendant of David, since the title, *mašîah*, "anointed one," is applied to him. Nationalistic prophets had foreseen and proclaimed a future for Jerusalem and Judah more magnificent than its past, a position of dignity, authority, and even of domination among the nations of the earth (1.1; 2.9, 14; 4.13).<sup>13</sup> But, alas, this prediction had been fulfilled in a manner the very antithesis of all that the people had been led to expect. Their prophets had prophesied falsely and led them to their doom. The enemy had besieged and captured Jerusalem and laid it in ruins (5.18). They had destroyed its palaces (2.5,7), had even dared to enter the sacred precincts of the Temple with their jeering shouts, and had set it on fire and destroyed it (2.6-7, 20). The walls and gates

<sup>12</sup> *Bamēdînôt*. Certainly this term and its specific implication suggest the Persian rather than the Neo-Babylonian Empire, and therefore a definite post-exilic setting and date for the book.

<sup>13</sup> The reference may well be to prophetic utterances such as Hag. 2.20-23; Zech. 1.14-17; 2.8-9; 8.1-8. But there were other prophets also, or persons popularly regarded as prophets, in the period of Haggai and Zechariah and likewise later, whose names are entirely unknown, who made enheartening predictions of national restoration and renewed glory perhaps even more extravagant than those of these two prophets; cf. also Neh. 6.7. Of some of these prophetic utterances we shall learn in the course of this study.



of Jerusalem they had pulled down (2.8-9) and the city they had consumed with fire (4.11). Famine within the city during the siege (1.11, 19; 2.12, 19, 20; 4.4, 9, 10) was attended by a ruthless massacre of the people by the vindictive enemy (1.20; 2.4, 21; 4.9). Her priests and prophets were slain (2.20), her women were raped (5.11), her youth, both male and female, were carried into captivity (1.3, 5, 18;<sup>14</sup> 4.22), unquestionably to be used or sold as slaves. Her king was pursued and caught (4.20) and was, no doubt, executed, and her officers were captured and carried off as prisoners by nations among whom there was no Torah,<sup>15</sup> no comprehension of and regard for the divinely ordered way of life, purposed by Yahweh for all mankind, for all nations and peoples (2.9). Now Jerusalem lies stripped and desolate, and foxes play in the ruins of the Temple (5.18).<sup>16</sup> Such is the sad and seemingly hopeless fate of Jerusalem and its populace, of the Temple and of the Jewish nation, which the Book of Lamentations bemoans.

But who were these nations which wrought this wanton destruction? Lam. 1.10 gives a specific answer to this question. They were those nations concerning whom Yahweh did once give command that they should never be permitted to enter, i. e. to become a part of, His congregation. The reference is unmistakably to Deut. 23.4. The nations who wrought this ruthless destruction were then, beyond all doubt, the Moabites and Ammonites. But not they alone, for 4.21 f. mentions Edom in particular as perhaps the most cruel and merciless of all these enemy nations.<sup>17</sup> These were Judah's neighbors, her former close

<sup>14</sup> *Bašbî* is the term used in both vv. 5 and 18, the same term as is used in Neh. 1.2. *Gôlah*, the customary term designating the Babylonian Exile, is used not even once, although the verb *galah* is employed in 1.3; 4.22. Moreover, this picture differs significantly from that of the Babylonian Exile in II Kings 24.14, where it was the upper social stratum of the people, which, together with certain classes of artisans, was carried into exile. Here it is the young men and the young women who are carried away, obviously to be used or sold as slaves. *Gôlah* implies living as exiles in a foreign land in more or less closed, national groups, while *šebî* seems to imply rather a condition of individual subjection and enslavement.

<sup>15</sup> *Tôrah*; the word is here difficult to interpret precisely. It seems to convey much the same meaning as, and to be practically synonymous with, *da'at Yahweh*, "knowledge of Yahweh," in Jer. 31.32 f. Certainly to these nations, manifestly Judah's ruthless enemies, the designation, "the nations among whom there is no Torah" (2.9), would apply very fittingly.

<sup>16</sup> Ps. 80.13-14, which, as we shall see, refers to the same national catastrophe as Lam. 1.2, 4, 5, likewise describes Jerusalem with its walls breached, so that every passer-by calls down imprecations upon it, while wild beasts pasture among its ruins.

<sup>17</sup> There is cogent reason for believing that the Edomites were originally named in Deut. 23.4 along with the Ammonites and Moabites as nations to whom admittance

friends, who had betrayed her, become her bitter adversaries (1.2, 17) and exulted in her downfall, proclaiming arrogantly: This is the day for which we have waited; we have found (it); we behold (it) (2.16). These were the nations among whom there was no Torah.

More than anything else, this enumeration of these three nations as the enemies who wrought this destruction of Jerusalem proves that this can not possibly have been the same destruction as that by the Babylonians in 586 B. C. For, according to Jer. 27.2-22; 40.11-16,<sup>17a</sup> these three nations had been Judah's close friends, and even its allies, during its fruitless rebellion against Nebuchadnezzar, and it was among just these three nations that those who managed to escape from Jerusalem sought and found refuge and continuing political support.<sup>18</sup> Obviously these nations could have had no part whatever in the catastrophe which befell Jerusalem in 586 B. C. It follows then with certainty that the destruction of Jerusalem and the Temple which they wrought must have been some quite other event and have transpired upon a different and certainly a later occasion. Such is the unmistakable testimony of the Book of Lamentations.<sup>19</sup>

into the congregation of Yahweh was denied forever. In fact Lam. 1.10 implies this very definitely. Ultimately, however, because of radically changed historic circumstances a very late Deuteronomic editor withdrew the mention of the Edomites from Deut. 23.4 and in its stead appended to the original legislation vv. 8-9, providing for the admission of the Edomites in the third generation into the congregation of Yahweh. Those Edomites, thus admitted to the congregation of Yahweh, i. e. to the Jewish religious community, were of course the so-called Idumeans, who had settled in Southern Judaea, presumably after their own country had been overrun, and they themselves had either withdrawn voluntarily or had been forcibly expelled, by the Nabataeans, probably during the course of the second quarter of the fifth century B. C. Herod, King of Judah in Roman times, sprang from the ranks of these Idumeans. If he may be regarded as typical of their acceptance of and devotion to the tenets of Judaism, their membership in the congregation of Yahweh must have been of a somewhat nominal and loose character.

<sup>17a</sup> Note also the import of Ezek. 21.24 ff.

<sup>18</sup> Jos. Ant. X, 9, 7 tells that in the fifth year after the fall of Jerusalem, i. e. in 581 B. C., Nebuchadnezzar conquered the Ammonites and Moabites, and presumably the Edomites also, even though they are not mentioned specifically. It was in the same year and no doubt in the course of this same campaign that Nebuzaradan, the Babylonian commander-in-chief, carried away the final deportation from Jerusalem, seven hundred and forty-five persons in all (Jer. 52.30). This indicates conclusively that still in 581 B. C. the Judaeans were closely federated with Ammon and Moab and presumably with Edom also. In the light of these considerations the statement in I Esdras 4.45, that the Edomites burned the Temple at the time that Judaea was made desolate by the Chaldaeans, must be regarded as the result of the confusion of two altogether distinct, but in many essential respects closely similar, historic incidents in the life of the Jewish people.

<sup>19</sup> Cf. Sellin, *op. cit.*, 70-76, with particular reference to Lam. 4.17-5.22.

## III

## TESTIMONY FROM THE BOOK OF EZEKIEL

Now that we have identified at least the major enemies of Judah who wrought this second destruction of Jerusalem and the Temple as the Edomites, Moabites and Ammonites, we begin to tread familiar ground. For the Bible abounds in passages of illuminating character which denounce these three nations as the arch-enemies of Israel and Judah and in most graphic manner record manifold details of their hostility. Let us consider first of all Ezek. 21.33-37; 25-32; 35.1-36.15.

As Hölscher has shown,<sup>20</sup> and in a manner which seems decisive, these chapters are by no means a literary unit. Rather they consist of a nucleus, in which merely two nations, Tyre and Egypt, are denounced and their conquest by Nebuchadnezzar in the very near future, in fulfillment of Yahweh's judgment upon them, is proclaimed. There is no valid reason for questioning the Ezekelian authorship of this nucleus. In its present form, however, this original nucleus has been expanded by some later writer or writers so that, instead of the original two, seven nations are now condemned as the objects of Yahweh's wrath.<sup>21</sup> These seven nations are Ammon, Moab, Edom, the Philistines, Tyre, Sidon, and Egypt. Obviously the denunciations of Ammon, Moab, Edom, the Philistines and Sidon can not come from Ezekiel,<sup>22</sup> but must be in their entirety the work of these later writers, and no doubt picture a situation of their own day. Very significantly, in none of the denunciations of these five nations is there the slightest mention of Nebuchadnezzar or the Babylonians or aught whatever

<sup>20</sup> *Hesekiel, Der Dichter und das Buch*, BZAW 39 (1924), 131 ff. Berry, "The Composition of Ezekiel," JBL LVIII (1939), 167, holds that in the main the oracles against the nations in Ezek. (21.33-37; 25-28; 35.1-36.15) come from about 450 B. C.

<sup>21</sup> In thus increasing the original number of the nations denounced by Ezekiel from two to seven the post-exilic editor, for that he wrote in the post-exilic period, and specifically at about the middle of the fifth century B. C., just as Berry maintains, we shall establish conclusively in the course of this investigation, seems to have conformed to a tradition generally current in his day. For Deut. 7.1, demonstrably part of a post-exilic stratum of Deuteronomy, speaks also of seven nations, the pre-Israelite inhabitants of Canaan and the traditional enemies of Israel. Similarly the list of four nations, viz. the Aramaeans, Philistines, Ammonites and Moabites, cited by Amos as the traditional enemies of Israel in his day, the eighth century B. C., was by some post-exilic editor expanded to include seven nations by the insertion of denunciations of Tyre, Edom and Judah (Amos 1.3-2.5).

<sup>22</sup> According to Jer. 27.3 the Tyrians and Sidonians were also the allies of Judah in 586 B. C.

to suggest that they were present in any way in the minds of the authors of these prophetic utterances. There is likewise ample evidence that the original, Ezekelian denunciation of Tyre, and probably also that of Egypt, have been considerably expanded by these later writers.

We are interested particularly in the denunciations of Ammon, Moab, Edom, the Philistines, and Tyre. The denunciation of Sidon<sup>23</sup> is in every respect conventional and tells no more than that for some reason its author regarded Sidon as one of the arch-enemies of Israel. Likewise the denunciation of Egypt<sup>24</sup> need not concern us too greatly, for not only is the analysis thereof difficult and more or less uncertain, but also the entire passage contains little which bears directly upon our problem. The only ground given for Yahweh's antagonism to Egypt and His determination to destroy it is that Egypt has been a faithless ally to Israel, upon which Israel has long relied too implicitly, to its own disappointment and resultant disaster. After the conquest by Nebuchadnezzar, and in fact down to the period of the Ptolemies, Egypt was hardly a power whose assistance Israel would seek, and much less rely upon unquestioningly. In the historic situation with which we are dealing in this study Egypt could have played no role whatever, not even in the slightest measure.

But with the five remaining nations the matter is quite different. With the possible exception of Tyre, they are all denounced for specific acts of hostility to Israel or Judah, acts which, as we shall see, have no bearing at all upon the situation of Jerusalem in 586 B. C., but which concern an event of later happening and of even more tragic character than the fall of the nation in 586 B. C. And the punishment which, so these denunciations proclaim, will be visited by Yahweh upon these nations, a punishment which, at least for Ammon, Moab and Edom, is uniform, is one which comes from a direction other than Babylonia and in which, as has just been indicated, neither Nebuchadnezzar nor the Babylonians have any part whatever. Moreover, as we have already noted, in 586 B. C. the Ammonites, Moabites and Edomites were the loyal friends and allies of Judah, not its exultant enemies, as these denunciations picture them. And there is good reason for believing that the Philistines too were, if not active participants in, at least sympathetic with, the rebellion of the allied little states of Western Asia, instigated by the faithless promises of Egypt, against Nebuchadnezzar, which resulted in the downfall of Judah and the

<sup>23</sup> 28.20-24.

<sup>24</sup> 29-32.

destruction of Jerusalem in 586 B. C.; accordingly they too must have been allies of Judah at that time, at least in spirit. Clearly these denunciations of Ammon, Moab, Edom and the Philistines can not have as their basis the bitter experience of 586 B. C.

The sin of Ammon,<sup>25</sup> which incited the wrath of Yahweh, was that at the time when the Temple was defiled and the house of Judah went into exile<sup>26</sup> it had exulted greatly. The experience of Judah recounted here might well seem to fit the circumstances of 586 B. C.; but certainly the conduct of Ammon here was the very antithesis of its relations to Judah then. This Judaic experience must unquestionably be a desecration of the Temple, a devastation of the land, and an exile of the people of Judah altogether different from those of 586 B. C. As retribution for this sin Ammon is to be given by Yahweh as prey, not to Babylonia, nor yet to Persia, but to the *Bene Kēdem*, nomads, true nomads of the camel type of Bedouin,<sup>27</sup> who will force their way into the Ammonite country from the desert to the east and will ravage the land ruthlessly. Obviously the historic situation with which this denunciation of Ammon deals must have transpired at a time when inroads by nomads from the desert constituted a very serious and closely impending danger, not only for the Ammonites but also for their immediate neighbors, Moab and Edom.

The sin of Moab<sup>28</sup> was much the same as that of Ammon. The Moabites too had exulted greatly at the catastrophe which befell Judah and had apparently found particular satisfaction in the thought that now Judah had become like all other nations.<sup>29</sup> And so their fate will be the same as that of Ammon, pillage and destruction at the hands of invading nomads.

The sin of Edom, which seems to have been particularly offensive to Yahweh, is dealt with twice, apparently by two different writers.<sup>30</sup>

<sup>25</sup> 25.1-9.

<sup>26</sup> Here (v. 3), *gōlah* rather than *šēbā*.

<sup>27</sup> Note the mention of their camels in v. 5.

<sup>28</sup> 25.8-11. *Sē'ir* in v. 8 is probably an editorial gloss.

<sup>29</sup> The precise meaning of this utterance, with its implication that in some way particularly exasperating to the Moabites, and probably also to the other neighboring nations, Judah had come to regard itself as superior, either generally or at least in some one, peculiar, but significant respect, to other peoples, will be determined later.

<sup>30</sup> 25.12-14, where Edom is the term used to designate the nation, and 35.1-15, where Seir is the name predominantly employed for this purpose. But although these two passages are in all probability the work of two different writers (and of course neither can be Ezekiel), both refer unquestionably to the same historic event and picture much the same fate for the Edomites.



According to the author of 25.12-14 Edom had sought vengeance upon Judah, presumably as the result of a bitter and implacable hostility. For this its land shall be overrun and despoiled and its people massacred. This vengeance Yahweh will visit upon Edom through Israel. The author of 35.1-15 is much more specific and graphic in his account of the sin of Edom and of its destined punishment at the hand of Yahweh. Edom, or Seir, had cherished an eternal enmity against Israel. Likewise the Edomites had coveted the two lands.<sup>31</sup> Therefore on the day of Israel's catastrophe they had massacred many in utter ruthlessness. They had rejoiced that the land of Israel had become desolate and had claimed possession of this ravaged land for themselves. Now Seir and Edom shall themselves be laid waste, and even as they had slaughtered Israel without pity, so shall the inhabitants of Seir be slain in return. The author of this passage gives no indication whatever as to what people the conqueror of Seir will be.

The sin of the Philistines is stated in general and almost conventional manner.<sup>32</sup> They too, because of an eternal enmity, had exacted vengeance upon Israel. Because of this Yahweh will in turn destroy the remnant of the Philistines.

Despite the extreme bitterness of the denunciation of Tyre,<sup>33</sup> its sin and the grounds for Yahweh's wrath against it are nowhere clearly set forth. However, one statement with regard to Tyre is, as we shall eventually see, of peculiar significance for this study, viz. that of 27.13, that Tyre was regularly a trafficker in human beings, i. e. was a seller of slaves, and that one of its regular customers in this regard was Yawan, i. e. either Ionia or Greece, and more probably the former.

Finally, one author, perhaps identical with the author of the denunciation of Seir in 35.1-15, summarizes in 36.1-15. The mountains of Israel have become a prey to the remnant of the nations<sup>34</sup> round about. They have claimed possession of the land, have laid its cities in ruins, and have subjected Israel to bitter humiliation. For all this Yahweh will wreak vengeance upon these nations, and especially

<sup>31</sup> I. e. Israel and Judah. If Jer. 49.1-5 may be interpreted as referring to the catastrophe of the Jewish people with which we are dealing, and this seems quite probable, then it follows that on this occasion Ammon too must have seized Israelite territory in Transjordan.

<sup>32</sup> 25.15-17.

<sup>33</sup> 26.1-28.20.

<sup>34</sup> *Še'erit hagôyim*, used three times in this passage. Note also that in 25.16 this same term, *Še'erit* is applied to the Philistines. The precise meaning of this term and its far-reaching import for our study will be determined in due time.

upon Edom, which had apparently surpassed all the other nations both in its rapacity and in its total lack of compassion for conquered Israel. And with this there will be from Yahweh a restoration and rehabilitation of Israel. Once again its land shall become fruitful and prosperous, its population shall become numerous, its waste places be rebuilt and its cities repopulated. Israel shall now conquer all its enemies, and never again shall they bereave it or put it to shame. This is Yahweh's judgment for it and for its enemies.

Summed up, these denunciations of these various nations establish the following historic situation. Judah has been overrun by a number of hostile states, its own immediate neighbors. Apparently there had not been separate invasions by these nations, each acting by itself. Rather, since the picture is that of one single, but extreme calamity, we must assume that these hostile nations had formed a coalition against Judah and had achieved a collective victory over it. The land had been overrun and devastated, its cities had been laid in ruins, the Temple had been defiled and apparently even destroyed; a large portion of the Jewish people had been ruthlessly massacred and another considerable portion had been carried away into captivity and, impliedly, sold as slaves. Only a small fragment of the people could have survived this tragic national experience. The suffering and humiliation of the people must have been bitter almost beyond description.

The nations which had wrought this destruction were the Ammonites, Moabites, Edomites, Philistines, and Tyrians, and apparently also, though probably to an almost insignificant degree, the Sidonians. These nations had been actuated by varying motives, ancient and implacable hostility to Judah and desire for vengeance, undoubtedly for previous wrongs, real or fancied, perpetrated by Judah upon them, deep-seated jealousy of the little nation because, so it is implied, for some reason Judah had regarded itself as superior to all other nations, and likewise by a strong desire for conquest, territorial expansion and material profit. Among these enemies of Judah Edom seems to have been both the most implacable and ruthless and also the most desirous of acquiring new territory. This conquest and destruction of Judah can not possibly have been that by the Babylonians in 586 B. C. Moreover, since the Temple had been defiled, and probably even destroyed, by these allied nations, this conquest and destruction must have transpired at some time after the second Temple had been built and dedicated, i. e. at some time after 516 B. C., and presumably too not immediately, but only after a reasonable period of existence and use, following this dedication.

Unquestionably then this conquest and devastation of land, Temple

and nation, attended by pitiless cruelty on the part of the enemy and consequent suffering and despair on the part of Israel, must have been the same as that which the Book of Lamentations commemorates; for, as we have learned, that destruction too was at the hands of the immediately neighboring nations, and especially Ammon, Moab and Edom. These denunciations in the Book of Ezekiel accord fully with the picture which Lamentations furnishes and supplement that picture not a little. Certainly it must have been, not the destruction of Jerusalem, the Temple and the nation in 586 B. C., one hundred and forty-one years earlier, but rather this later destruction and the attendant slaughter and captivity of a section of the people so large that but a little fragment remained resident in the land, a little fragment which could with perfect propriety be designated as "the remnant which were left from the captivity," which Nehemiah bewailed. And manifestly by 445 B. C. this little remnant in Palestine still persisted in the unhappy state which the conquest and its attendant destruction had brought about. Therefore the restoration and rehabilitation, which the author of Ezek. 36.1-15 had predicted so confidently, had not yet transpired. It may be inferred with reasonable certainty that this catastrophe had befallen the Jewish nation not too long before 445 B. C., since still at that time its effect seemed so vivid to Nehemiah and disturbed him so greatly. Also we may ask, why should the author of Ezek. 36.1-15 speak of these nations which had ravaged Judah as "the remnant of the nations," and the author of Ezek. 25.16 speak of the Philistines as a "remnant?" And who were the Bedouin, the *B'ne K'edem*, who were destined, in fulfillment of Yahweh's purpose of vengeance upon these nations for their ruthlessness to His people, to, in turn, pillage and destroy their lands and massacre their inhabitants, especially Ammon, Moab and Edom?

#### IV

#### THE TESTIMONY OF OBADIAH AND MALACHI

The author of Ezek. 35.5 spoke of the eternal hostility which existed between Edom and Israel which led the former nation to massacre pitilessly on the day of Israel's catastrophe. The same conduct on the part of Edom is denounced, and in language strikingly similar, by the author of Obad. 11-16; but there the picture of Edom's procedure upon this occasion and the extent of Israel's catastrophe are far more detailed and vivid. Edom was merely one of the nations, but seem-

ingly, by the manner in which it is singled out, the most active and vindictive among them, which besieged Jerusalem, destroyed its walls, entered its gates and cast lots over the hapless city. On this day of Judah's overwhelming catastrophe<sup>35</sup> Edom had not only massacred the inhabitants of the city in vast numbers, but in particular it had cut off many of the fugitives and delivered them up to a fate sad indeed, exile for the sons and daughters of Jerusalem, which carried them as far from their native land as Sefarad,<sup>36</sup> wherever that land may have lain.<sup>37</sup> Even upon the Temple Mount the hostile nations had drunk and had defiled its sanctity. And through it all Edom had exulted mercilessly at the destruction of its ancient enemy. Therefore the Day of Yahweh is drawing near when He will visit retribution upon all these nations and, impliedly, upon Edom in particular. Even as they had dealt with Judah with savage cruelty, so will Yahweh deal with them.

Precisely this is the implication also of Mal. 1.2-5.<sup>38</sup> But here we are carried a significant step onward in our investigation. Edom and Jacob are brothers; but Yahweh, throughout Mal. represented as a truly universal God, whose authority extends over all nations, hates Edom and loves Jacob. And the destruction of Edom at

<sup>35</sup> *B'êyôm 'êdô*, the same term as is employed by the author of Ezek. 35.5. Here it is repeated nine times, though in slightly variant forms, within the brief compass of six verses. This is certainly the same historic event as the *yôm Yeruśalaim*, "the day of the destruction of Jerusalem," of Ps. 137.7, in which too the Edomites had slaughtered the inhabitants of the towns of Judah mercilessly.

<sup>36</sup> V.20; cf. also Ezek. 25.3; Lam. 1.3; Ps. 44.12.

<sup>37</sup> For various identifications of Sefarad cf. Gesenius, *HWB*<sup>17</sup>, 551b; Koehler and Baumgarten, *LVTL*, 666b. The clear implication here is that Sefarad is very far distant from Judah, at the other end of the earth, as it were. In all likelihood then it designates here Spain and the remotest Phoenician colonies. In this connection it may be noted that Isa. 60.8-22, and other Biblical passages as well (cf. below, pp. 153-155), speak of Jews as being in captivity in lands across the sea. It was undoubtedly the historic event in the life of the Jewish people with which we are dealing which produced this condition. All such Biblical passages must then be assigned to a date later than that which we shall establish for this catastrophe.

<sup>38</sup> Quite probably with this passage Amos 1.11-12, certainly a secondary and interpolated passage in that chapter, should be correlated. It too records Edom's implacable hatred for and cruel treatment of Israel, its brother, and announces its impending doom at Yahweh's hands. There could scarcely have been in the historic relations of Israel and Edom two separate and distinct occasions for the promulgation of a message such as this. With this should be correlated also the denunciation of Edom in Jer. 49.7-22, which in itself exhibits close affinities with Obad. In all probability Num. 24.16-19 also refers to the same event, and therefore must be assigned to the same date. Likewise with Obad. 12 Ezek. 25.6; Lam. 2.15; 3.46 should be correlated.

Yahweh's hands, that destruction of which the authors of Ezek. 25.12-14; 36.1-15 and Obad. 11-16<sup>39</sup> spoke with such assurance, has already set in. The land of Edom has already been ravaged by some enemy and its cities have been destroyed. But the spirit of the Edomites is not yet completely crushed and they boldly declare that they will rebuild their cities and restore the waste places; but all this, the prophet affirms in the name of Yahweh, will be in vain. Against Edom Yahweh cherishes an implacable hatred; therefore Edom is doomed to sure and total destruction. And Jacob, beholding this fate of Edom, will rejoice and will see therein further evidence of the world-wide, irresistible power of Yahweh.

This passage is of particular significance in that it enables us to fix the date of this particular catastrophe fairly closely. That the occasion of Malachi's prediction of Edom's doom is the same as that which called forth the various prophetic utterances which we have previously interpreted can scarcely be questioned. This passage of Mal. is one of the latest, if not the very latest, of the several prophetic messages recorded in that little book.<sup>40</sup> As we shall see later, there is good reason for dating this passage at about 478 B. C. or very soon thereafter. Presumably then the catastrophe to Jerusalem transpired but a comparatively short time before this date. This inference we shall find amply corroborated.

<sup>39</sup> Also Amos 9.11 f. must be correlated with this predicted destruction by Yahweh of Edom, here, quite significantly spoken of as "the remnant of Edom," and of all the nations over whom Yahweh's name is called, i. e. all the nations of this anti-Jewish coalition. Very significantly also, as we shall see in due time, this passage foretells likewise the restoration of the dynasty of David to the throne of Judah as the preliminary to the destruction of these nations.

<sup>40</sup> Cf. von Bulmerincq (*Kommentar zum Buche des Propheten Maleachi*, I, 132-136), who, following a host of eminent scholars, whose names he lists, correlates this passage and also Ezek. 25.4, 5, 10; 35.10 ff.; 36.5 with the initial emergence of the Nabataeans from out the northern Arabian Desert and their inroads into the lands immediately adjacent on the west, particularly Edom, Moab and Ammon. With this hypothesis we are in complete agreement. Von Bulmerincq would date this prophecy in 485 B. C. For reasons which will be stated later, and which, we believe, will seem cogent, we prefer to date this prophecy to a year or two after the failure of Xerxes' expedition against Greece, i. e. at about 478 B. C. Von Bulmerincq regards this as the first prophetic utterance of Malachi. For reasons which we regard as altogether compelling, and which will be at least touched upon in the course of this investigation, we must regard it as the latest of the prophetic utterances preserved in Mal. In fact all of the prophetic utterances in Mal. we would, upon grounds which we regard as completely convincing, set between 490 and 478 B. C.



## V

## TESTIMONY FROM THE PSALMS

Further light is thrown upon this destruction of Jerusalem by a number of psalms, and most immediately by Ps. 44.10-17, 23; 60 (= 108).3-5, 10-13; 74.1-11, 19-23; 79; 83; 137.7-9. These psalms were long regarded as Maccabean, i. e. as composed during the second century B. C. and as reflecting historic conditions and incidents of the Maccabean wars. However, during the last half-century or so a steadily growing number of authoritative scholars have, on various grounds, challenged or even rejected absolutely a Maccabean date and background for any of these psalms and have sought to assign them to various periods, all considerably earlier than the Maccabean era. Perhaps this investigation may substantiate that general conclusion and may even succeed in linking these and other, related psalms to the significant incident in the history of the Jewish people which we are seeking to recover, and in so doing may fix rather closely the approximate date and circumstances of composition of these various psalms. And then, in turn, the interpretation of these psalms in the light of the historic setting which we will thus have established for them will, quite naturally, shed further light upon the historic event itself.

Of all these psalms Ps. 79 presents the simplest and most immediate picture. It tells that nations have entered Yahweh's land,<sup>41</sup> have defiled His sanctuary and made Jerusalem a place of ruins. The corpses of Yahweh's faithful servants they have left lying unburied round about Jerusalem, to be consumed by birds and beasts of prey. They have poured out like water the blood of Yahweh's people. The little nation has become an object of mockery and contumely to its neighbors. All this has been wrought by nations who, though Judah's neighbors, dwelling immediately round about it, nevertheless do not know, or do not recognize, Yahweh, by kingdoms who do not call upon His name.<sup>42</sup> The Psalmist pleads with Yahweh not to cherish too long the memory of the sins of old, but instead to come speedily to Israel's rescue, for it is grievously afflicted. Let Him forgive their sins and

<sup>41</sup> *B<sup>n</sup>nah<sup>a</sup>lateka*; for *nah<sup>a</sup>lat Yahweh* as "Yahweh's territory," i. e. Palestine in general and the southern section thereof, Judah, in particular, cf. 1 Sam. 26.19; Jer. 2.7; 16.18.

<sup>42</sup> Cf. Lam. 2.9; also Jer. 10.25, obviously a post-exilic gloss which refers specifically to the historic event with which we are dealing.

deliver them for the sake of the glorification of His name; for why should these nations have the opportunity to ask sneeringly, "Where is their god?" Let it be made clearly manifest to those nations, and that too in such manner that Israel will itself witness their consternation when this realization dawns upon them, that Yahweh does avenge<sup>43</sup> the blood of His martyred servants. Let the groaning of the prisoners come before Him, and let Him cause a remnant to survive<sup>44</sup> of those who, without His deliverance, would be doomed to death. And let Him requite sevenfold to Israel's neighbors all the shame which they have heaped upon Yahweh's people. Then will Israel thank Him eternally and utter His praise throughout all generations. Such is the content of this psalm.

Briggs assigns this psalm to the period shortly after 586 B. C. and holds that the national catastrophe which it describes is the destruction of Jerusalem and the Jewish nation by Nebuchadnezzar. He adds, however, that the psalm contains so many glosses from the Maccabean period that actually only vv. 1-2 seem to be integral. Such an analysis and conclusion are obviously meaningless and groundless. Kessler and König too hold that the psalm describes the national destruction in 586 B. C. and so must come from the Babylonian exile. Gunkel shows convincingly that the psalm can no more refer to the events of 586 B. C. than to the Maccabean wars. Accordingly he assigns this psalm and also the closely related Ps. 74 to the period between Ezra and Alexander, and holds that both refer to some attempt to plunder the Temple in the wars between Persia and Egypt about 400 B. C., and that Joel 4.4 f. likewise refers to the same event. But, on the one hand, the catastrophe to the Jewish people, which these two psalms portray, is too extreme to warrant the assumption of such a simple and inconsequential event and no more. And, on the other hand, the Books of Ezra and Nehemiah as well as the Elephantine papyri and also Josephus indicate clearly that from at least the time of Nehemiah and continuing probably until the end of the reign of Artaxerxes II in 359 B. C. Jerusalem was not seriously disturbed by any hostile force, at least not in the manner described in this psalm. While therefore the positive conclusion of Gunkel as to the date and historic setting of this psalm can not be accepted, his negative conclusion, that the psalm can be from neither the exilic nor the Maccabean period, is of extreme importance.

Buttenwieser, perhaps following the suggestion of Gunkel, is far

<sup>43</sup> Reading *naḳamta* for the syntactically difficult, if not impossible, *niḳmat*.

<sup>44</sup> I see no need whatever to emend, with Buhl and others, *hôte* to *hatter*.

more specific. He correlates both Ps. 79 and 74 with the incident recorded in Eusebius, *Chronicon*, II, 112–113, and repeated by both Syncellus and Orosius, that in 344 B. C. Artaxerxes Ochus carried away a portion of the Jewish people into captivity and resettled them in Hyrcania, on the shores of the Caspian Sea. Bittenwieser contends further that “the attack made upon Judaea by Artaxerxes Ochus, or rather his general Orophernes, is the historical background of the Book of Judith.” In support of this latter contention Bittenwieser quotes a number of passages from Judith which seem to indicate that in the mind of the author the actual enemy of the Jewish people and source of danger to Jerusalem and the Temple was, not the Babylonians under Nebuchadnezzar, but rather the Persians. In particular he stresses the import of Judith 4.2–3: And they were exceedingly afraid of him, and were troubled for Jerusalem and for the Temple of the Lord, their God; for not long ago had they come up from the captivity, and but of late had all the people of Judaea been gathered together and had the vessels and the altar and the Temple been newly sanctified after the profanation. He argues that this explicit statement, that only comparatively recently had the Temple been rededicated, after its profanation, fits well his proposed linking of the historical background of Judith with the catastrophe which, so he claims, must have befallen Jerusalem in 344 B. C.

But actually, on the one hand, we know nothing of any specific calamity which befell Jerusalem in this year other than that a portion of the population of Judaea was carried off by Artaxerxes Ochus to Hyrcania. But what historic conditions and circumstances may have preceded and occasioned this event, and specifically as to whether there was at that time a siege, capture and destruction of Jerusalem and burning of the Temple, such as are recorded in these two psalms, we have no information whatever. And, on the other hand, Bittenwieser's contention that the statement in Judith, that only recently had the people come up from captivity and had the Temple been rededicated, fits the assumption that the historic background of the book is the events of 344 B. C. is scarcely tenable; for certainly a period of one hundred and seventy-two years, the interval between the dedication of the second Temple in 516 B. C. and 344 B. C., can hardly, by even the widest stretch of the imagination, be regarded as sufficiently brief to be properly described as “not long ago” and “but of late.” Moreover, in 344 B. C. the enemy was Persia itself, and not at all Israel's “neighbors,” as Ps. 79.12 states explicitly, i. e. the little states immediately adjacent to Judah acting in coalition.

But if, as numerous considerations are now beginning to indicate

with ever-increasing force, we may assume that a national calamity, of far greater compass than the mere deportation of a portion of the population of Judaea to Hyrcania by a Persian king (although it must be admitted that this event too might well have been attended by other circumstances, not recorded in our extremely meager sources) and of even more distressing character for both the city and the people, befell Judah and Jerusalem and its inhabitants, of which the capture of the city, the destruction of its walls and the burning of the Temple were merely incidents, shortly before 478 B. C., say about 485 B. C., then certainly the statement of the Book of Judith, with its "not long ago" and "but of late," would be wholly applicable. Unquestionably Bittenwieser's argument from the testimony of the Book of Judith for the dating of Ps. 79 and 74 in or shortly after 344 B. C. would actually point much more convincingly to a dating of these two psalms shortly after 485 B. C.<sup>45</sup>

Actually Ps. 79 contains within itself evidence which enables us to fix its approximate date with reasonable certainty. This evidence is implicit in the very detailed and explicit citation of the important theological doctrine of "for His name's sake" in vv. 8-10, or even in vv. 8-13.

This doctrine was first formulated by Ezekiel in the very latest portion of his prophetic career, following some time after the fall of Jerusalem and the second deportation in 586 B. C.<sup>46</sup> Shortly before this Jeremiah had proclaimed that the exile would be, not as the earlier prophets had announced and as he himself in his earlier messages had held, for repudiation by Yahweh of His ancient covenant with Israel, and therefore for Israel's complete destruction and national annihilation, but that it would be for discipline, regeneration and eventual restoration. Jeremiah obviously believed in the regenerative effect of the exile, with all its anticipated suffering, so completely that he did not hesitate to proclaim the supplementary doctrine of the new covenant, with its very clear implication that this would be an eternal covenant, never to be repudiated by Yahweh, because Israel, now completely regenerate, would never again sin and prove faithless to its covenant obligation, and therefore never again would Yahweh have cause to reject this new covenant.<sup>47</sup>

<sup>45</sup> Other psalms which Bittenwieser would correlate likewise with the events of 344 B. C. must all, for various reasons, be assigned to other dates.

<sup>46</sup> This doctrine, in its historical setting and with its theological implications, I have already discussed in considerable detail in "Moses with the Shining Face," *HUCA* II (1925), 18-20; "Psalm 48," *HUCA* XVI (1941), 26-38; "Psalm 23," *JBL* LXV (1946), 20 ff.; "Isaiah 63.7-14," *HUCA* XXIII (1950-1951), I, 201 f.

<sup>47</sup> Jer. 31.30-33.

Subsequent events, however, must have demonstrated very speedily the fallacy of this assumption. Even in exile, and despite the very high hopes which Jeremiah had set upon the exilic Jewish community as the true agent of eventual national salvation and restoration,<sup>48</sup> the people must have sinned and strayed from its covenant obligations again and again, at least as measured by prophetic standards. Yet Jeremiah's doctrine, that the exile, with all its suffering, would be, not for doom and destruction, but rather for regeneration and restoration, seems to have become firmly implanted in the thought and faith of the people, so much so in fact that ever thereafter it remained a positive, unshakable, unchallenged theological and political doctrine.

But this, in turn, gave rise very quickly to a logical and serious question. If it be granted, on the one hand, that, despite all its sufferings in exile and otherwise, Israel had remained a sinning and sinful people, but, on the other hand, that it was Yahweh's fixed purpose to restore Israel to its native land and to renewed existence as His people, then how was it possible to justify the procedure of Yahweh, as a god of justice, as the earlier prophets had proclaimed Him to be, in thus so completely disregarding the people's sin and depravity and, without adequate and commensurate punishment of its faithlessness to Him, making it again the object of His favor and protection? The restoration of Israel to peoplehood in its native land and to renewed covenant relations with Yahweh was not subject to doubt or questioning, for Jeremiah had declared, without any condition or reservation whatever, that this was Yahweh's sure purpose; but this procedure had to be justified, and that too in the most adequate and convincing manner possible. Summed up, the justification could be found only in the determination of Yahweh's ultimate purpose in thus, in contravention of the basic principles of His divine justice, forgiving so completely a recognizedly sinful people, and this too without adequate repentance and regeneration on its part. Only some divine purpose, which in its very nature and intent far transcended the fact, degree and quality of the sin, could justify such otherwise irregular and inexplicable procedure on Yahweh's part. What could His larger purpose in all this have been?

Actually several answers, none of them, however, completely and permanently satisfying, were given successively in the course of the century following upon the beginning of the exile in 586 B. C. Each, in turn, despite its failure to answer the original question in thoroughly convincing manner, made a significant contribution to the gradually

<sup>48</sup> Cf. Jer. 24.1-7.



evolving and expanding theological content of nascent Judaism. The first of these was the doctrine of *l'ma'an š'mô*, "for His name's sake," propounded by Ezekiel.

In 36.16-28 the prophet speaks as follows: The word of Yahweh came to me saying: Son of man, the house of Israel, dwelling in their own land, defiled it with their way and with their deeds; like the uncleanness of a woman in menstruation, so was their way before Me. So I poured out My wrath upon them because of the blood which they had poured out upon the land, and which with their idols they had defiled. And I scattered them among the nations, so that they were dispersed in the various countries; according to their way and according to their deeds did I punish them. So they came to the nations whither they migrated, and they caused My holy name to be profaned through men saying of them: These are Yahweh's people, but they have departed from His land! But I have consideration for My holy name, which the house of Israel profaned among the nations whither they migrated. Therefore say to the house of Israel: Thus saith my Lord, Yahweh: Not for your sake will I act, O house of Israel, but for the sake of My holy name, which ye profaned among the nations whither ye migrated; and I will sanctify My great name, which has been profaned among the nations, in whose midst ye profaned it, so that the nations may know that I am God,<sup>49</sup> ----- when I show Myself to be holy among them before their very eyes. And I will take you from the nations and I will gather you from all the lands and I will bring you unto your own land. And I will sprinkle upon you pure water, so that you may become clean; from all your uncleanness and all your idols will I purify you. And I will give unto you a new heart, and a new spirit will I put within you; and I will remove the heart of stone from your flesh, and I will give you a heart of flesh. And My spirit will I put within you -----; and ye shall dwell in the land which I gave unto your fathers; and ye shall be unto Me for a people, and I will be unto you for God.<sup>50</sup>

This passage is so clear and its message so simple and direct that it scarcely needs amplification or comment. In its own land Israel had sinned grievously against Yahweh, and through its sins had defiled Yahweh's holy name, so that He could no longer command the respect of the other nations. Therefore He had punished Israel by exile and dis-

<sup>49</sup> For *Yahweh* with the connotation "God," i. e. "the one, universal God," rather than being merely the proper name of Israel's national deity which distinguished Him from all other national gods, cf. Blank, "Studies in Deutero-Isaiah," *HUCA* XV (1940), 14-18.

<sup>50</sup> Cf. also Ezek. 11.17-20; 20.41-44; 39.23-29.

persion among the nations. However, this procedure of Yahweh had had one unfortunate consequence, perhaps not adequately foreseen by Yahweh Himself, viz. that this well-merited punishment of Israel by Yahweh, this conquest by a foreign enemy and exile from native land, had, not at all unnaturally, been completely misinterpreted by the nations and had confirmed them in their depreciation of Yahweh and His power and their consequent disregard of Him; for it gave them ample occasion to say that, even though Israel was Yahweh's people, they had had to go forth from His land, and from this to draw the mistaken, but for them altogether natural, conclusion that Yahweh was a deity too weak and impotent to protect His own people, even in His and their own land, against the attacks of their enemies and save them from the overthrow of their nation, loss of political independence and exile. Consequently, because of Israel's sin and faithlessness, Yahweh was on the point of forfeiting the respect and veneration of the other nations. And, impliedly, this was for Him a grave and disturbing consideration.

Therefore it now behooved Yahweh to reverse His treatment of Israel completely; for to Him that all the nations of the earth should know Him and recognize Him as a powerful deity, even as a true world-god, had now become a consideration which, according to Ezekiel, transcended in its compelling character even Israel's sin against Him and the just and commensurate punishment by Him of the faithless people. Therefore, so that He might, as it were, rehabilitate Himself among the nations and restore His reputation and the credit due His holy name and regain their respect, He had no alternative but to restore Israel to its native land, to take it again as His people and to resume with it His former relations as its god. Even though Israel in no wise merited this restoration to positive relations with Him, none the less He must do this in order to win the esteem of the nations and bring them thereby to acknowledge Him to be a true world-god, to whom their respect was plainly due. His forgiveness of Israel would accordingly not be the proper and just result of Israel's regeneration through suffering and repentance, as Jeremiah had some twenty-five years earlier anticipated so confidently; for Israel in exile had, on the whole, not suffered too greatly, and certainly it had, as a unit, not manifested any impulse towards true repentance, any real change of heart, which might lead to reaffirmation of its loyalty to Him and its determination to live henceforth in full conformity with its covenant relations with Him. Rather, in the land of its captivity it had, and for this there is ample and compelling evidence, adjusted itself readily and sympathetically to its new environment and had

even, there is good reason to believe, in total disregard of Jeremiah's message to it,<sup>50a</sup> but, in complete conformity with the principle of the intimate and inseparable association of god and land<sup>50b</sup> fundamental to and dominant in the religious belief and practice of the majority of the Semitic peoples of that day, had even become in considerable measure worshipers of the Babylonian deities,<sup>50c</sup> the gods of their new home land; for after all had not these Babylonian gods demonstrated their immense superiority to Yahweh and also the utter impotence of Yahweh, even in His own land and on behalf of His own people?

But despite all this, if Yahweh was to rehabilitate Himself in the esteem of the nations and win from them some measure of acknowledgment as a true world-god, He needed Israel; He needed Israel as His people; moreover, He needed Israel restored to its own native land. For certainly the bringing back of a conquered people from captivity to native land, its recovery of economic self-sufficiency and restoration to national existence and political independence there should evidence a god's true power and world-character and authority even more than the mere deliverance by him of a people, still unconquered and dwelling in its own land, from subjection by an invading foe, no matter how powerful and seemingly irresistible the latter might be. A god who could do all this would certainly merit, and equally certainly command, the nations' awesome respect. And this, so Ezekiel maintained, Yahweh desired above all else; for was He not in truth, a god, Israel's god, but also a world-god; but even as a world-god, still Israel's god in first degree? Therefore He must bring Israel back from exile and restore it to its native land and to normal relations with Himself. Once again it must be His people and He its god.

But just here a challenging question asserted itself with full force. How could Yahweh, a god of justice and right, accept, or even Himself bring back, into renewed covenant relationship with Himself a people which had proved itself utterly faithless and which had violated its covenant obligations to Him again and again? To this seemingly unanswerable question Ezekiel had an answer ready to hand. The old Israel had proved faithless, yes; but not this new Israel!

<sup>50a</sup> Jer. 29.1-7.

<sup>50b</sup> Robertson Smith, *Religion of the Semites*<sup>3</sup>, 91-98.

<sup>50c</sup> Just this is the import of Isa. 46. In this brief address the prophet castigates those Jews in Babylonia, for the most part the children or grandchildren of Jews who had been carried into exile in 597 or 586 B. C., only some fifty years earlier, for their acceptance of the Babylonian deities, the gods of the land, as their gods and their consequent implicit repudiation of Yahweh.

True, its experience in exile had not been chastening, had not regenerated it, as Jeremiah had predicted; but what of that? Yahweh, an all-powerful world-god, would Himself regenerate Israel! He Himself, as an act of sheer grace, would remove from Israel's breast that hard, stony heart, which had prompted Israel to sin and faithlessness, and would replace it with a heart of flesh, a heart soft and pliable, amenable to Yahweh's teachings and obedient to His will. And thus transformed, Israel would henceforth prove itself faithful to its covenant with Yahweh and forever merit His favor, His protection and His blessing. And nations, beholding this marvellous demonstration of Yahweh's purpose and power, would reverently acknowledge Him as a true world-god and gladly accord Him the honor due Him from them.

Such was Ezekiel's doctrine of "for His name's sake," plainly a corollary to the Jeremianic doctrine of "the new covenant." It could have been propounded by the younger prophet only in the final period of his prophetic ministry, only after sufficient time had elapsed to demonstrate the fallacy of the Jeremianic hope and message and to warrant, if not its repudiation, at least its reformulation in modified and seemingly realistic form.<sup>51</sup> Precisely this is what Ezekiel attempted to do with his doctrine of "for His name's sake."

<sup>51</sup> That this doctrine could have been proclaimed by Ezekiel only near the end of his prophetic career is self-evident from its very content and implication. In relation to it the actual fall of Jerusalem and the attendant deportation of its population are neither impending nor yet even fairly recent. They are already events and experiences of a past so distant that conditions for the Jews both in Palestine and in Babylon have become fairly stabilized, and it has now become clear, at least to Ezekiel himself, that the high hopes which Jeremiah had set upon the disciplinary and regenerative effects of the Exile upon the deportees were doomed to disappointment. A period had elapsed since Jeremiah's message, with its universalistic implications (cf. Jeremiah's message to the exiles in Babylon to there, in their new home, pray to Yahweh for the welfare of the communities in which they had come to dwell [29.5-7], with its implication, something at that moment altogether novel in Jewish theological doctrine, that it was possible to worship Yahweh and call upon His name and summon Him to action even outside of Palestine, His land), sufficiently long for universalistic doctrine to have evolved to the point that Ezekiel could now regard Yahweh as more than a mere national god, the god of a single land and a single people, and could think of Him rather as a world-god, a god whose power and authority extend far beyond His own land and His own people and, in certain, very positive respects, encompass all lands and all nations, and that therefore very naturally and properly He desires and even demands the respect of all nations and peoples. And if we may assume, as seems quite likely, that Ezekiel lived and functioned as a prophet for a period of at least thirty years, then we may very properly set the promulgation of this doctrine of "for His name's sake" at about 570 B. C., some twenty-seven years

A moment's thought, however, must reveal that this new doctrine was neither entirely convincing nor altogether adequate. The argument that Yahweh must forgive a still sinful and unrepentant Israel runs counter to the teachings of the earlier prophets and to the basic principles of evolving Judaism too greatly to permit its unchallenged acceptance. It was not long before this somewhat revolutionary doctrine of Ezekiel ceased to satisfy completely, and new and seemingly more logical and convincing answers to the primary problem were advanced. But for a time at least this doctrine of "for His name's sake" was accepted quite generally and exercised a considerable influence upon the thought, theology and literature of the Jewish people during the next few centuries, and that too even after other answers to the basic question had been propounded. In Isa. 43.25; 48.9-11 the doctrine finds reformulation so clear and positive as to suggest that Deutero-Isaiah, in the initial stages of the evolution of his prophetic message, was directly dependent upon Ezekiel, his predecessor by only some thirty years. Likewise a very plain affirmation of this doctrine is found interpolated into Ex. 32.11-12 and again into Num. 14.13-20. Also I Kings 8.41-43 (=II Chron. 6.32-33); Ps. 83.17-19; 98.2-6; 106.8; 115.1-2; 117 all give clear and unmistakable expression to this doctrine, and that too in a manner which indicates that they are directly dependent upon, and therefore must be, at the very earliest, somewhat later than, Ezekiel.

This same conclusion applies unmistakably to Ps. 79.9-10. Both the thought and the language of these two vv. is illuminating: Help us, O God of our salvation, for the sake of Thy glorious name, and deliver us and make atonement for our sins for Thy name's sake. Why should the nations say: Where is their God? Let it become known among the nations before our very eyes (that) Thou hast avenged the blood of Thy servants which has been shed. A statement of Ezekiel's doctrine more positive and precise than this can hardly be imagined. Manifestly this doctrine of "for His name's sake" was still cherished

after the first deportation in 597 B. C., some twenty-five years after Jeremiah's promulgation of his doctrine of the disciplinary and regenerative effects of the Exile and of the eventual return from Exile, some sixteen years after the second and the major deportation in 586 B. C., and just long enough thereafter for Ezekiel, on the one hand, to become convinced of the futility of Jeremiah's expectation of the regeneration of the exiles through their sufferings, sufferings which, as has been said, did not materialize at all in the manner and to the degree which Jeremiah had confidently anticipated, and, on the other hand, to have advanced the concept of Yahweh as a world-god quite a bit beyond the point reached by Jeremiah or any of the prophets before him. A date about 570 B. C. fits these conditions exactly and may therefore be accepted as reasonably certain.



in literal and realistic manner at the time of the composition of this psalm.

There can scarcely be any question that this psalm was composed quite soon after the bitter catastrophe which it describes had befallen the Jewish community, dwelling in and around Jerusalem. The vividness of the picture in many of its sorrowful details, the present, desperate plight of the people, and the earnest intensity of their plea to Yahweh, their God, and now, quite manifestly, their only possible source of help, for deliverance from the apparently still continuing oppression and insult at the hands of ruthless enemies, their immediate neighbors, all point unmistakably to this conclusion. The tragic effects of this great catastrophe are still felt in excruciating manner. Here too the people themselves appeal to Yahweh for forgiveness of sins, forgiveness of sins, it is quite clear, entirely after the pattern and in the manner first announced by Ezekiel, not because of any merit on their part but as a sheer act of grace on the part of the Deity, and for the termination of their bitter sufferings. And even more significant, they beseech Yahweh to act against these ruthless and malicious nations, nations who do not know Him and kingdoms which do not proclaim His name, i. e. do not acknowledge Him as the one, universal God, or even as a universal god at all, and so manifest no respect for Him, have no regard for His name. The people supplicate Him to free them from their misery and to avenge upon their pitiless enemies the wrongs done to them; and all this for the sake of His name. This anguished appeal by the people themselves, imbued, as it plainly is, by a note of deep sincerity, pictures a situation altogether different than that in Ezekiel's message, where, unlike here, where the people plead that He do so, Yahweh Himself takes the initiative in acting in order to glorify His name. That Ps. 79 is later than and directly dependent upon Ezekiel and his formulation of the doctrine of "for His name's sake," later than 570 B. C., can not be doubted. On the other hand, it is a reasonable inference that the psalm itself can not have been composed and the event which it records can not have transpired too long after Ezekiel's formulation of his doctrine, for the psalm reveals, as has already been intimated, that the doctrine was still cherished in its original form and with all its primary implications and had not yet undergone any of the later modifications to which reference has been made.

This conclusion finds strong support in the reference in v. 6 to the nations who do not know Yahweh and the kingdoms which do not proclaim His name. For the unmistakable implication of these words is that all these nations and peoples should have done

spontaneously and reverently. And this suggests, in turn, that this psalm must be later than the dedication of the second Temple in 516 B. C. and the inauguration, by the universalist party in the Jewish community of Palestine, of the program of proselytism to Judaism at that blessed and auspicious moment.<sup>52</sup> And indeed v. 1 does make explicit mention of the Temple; and this can be only the second Temple, quite as if it had been in existence for some time and had only recently been destroyed by these ruthless and impious enemies.

But if this be granted, then it follows with all certainty that the destruction of Jerusalem, the defilement of the Temple and the massacre of the people, which Ps. 79 records with graphic and poignant immediacy, can not possibly be those of 586 B. C., but must be parallel occurrences of a somewhat later period.

But that the date of this psalm may not be set too late, and certainly not as late as 344 B. C., is evidenced by the vividness with which this doctrine of "for His name's sake" is presented in vv. 9-10. As has been said, this doctrine continued to influence Jewish thought for some time, for approximately two centuries or even longer, after its promulgation by Ezekiel. But in time, quite naturally, it became conventionalized and stereotyped to such a degree that the expression, "for His name's sake," came to be used frequently and the doctrine itself to be cited in a manner more or less perfunctory, as, for example, in Ps. 23.3;<sup>53</sup> 25.11; 31.4; 106.8; 109.21; 143.11.<sup>54</sup> But it is impossible

<sup>52</sup> Cf. Morgenstern, "Two Prophecies from 520-516 B. C.," *HUCA* XXII (1949), 365-427. V. 12 says specifically that instead of rendering this expected homage to Yahweh, the hostile nations have blasphemed Him, i. e. by their acts, and probably also by their very utterances, have mocked at and insulted Him; therefore, because of their open defiance of His wishes and purposes with them and the contumely which they have heaped upon Him, they merit the extreme manifestation of His wrath toward them. Vv. 6-7 are almost completely identical with Jer. 10.25, a verse which is recognized by practically all scholars as not original where it stands, and which has undoubtedly been borrowed from this Ps.

<sup>53</sup> Cf. Morgenstern, "Psalm 23," *JBL* LXV (1946), 20.

<sup>54</sup> All these psalms must, on the basis of this use of the doctrine of "for His name's sake" as well as because of other, cumulative internal evidence, be assigned to a period later, and perhaps even considerably later, than 485 B. C. Jer. 14.7, 21 and Ezek. 20.9, 14, 22 are the only other passages in the O. T. in which the expression, *l'ma'an š'mô*, "for His name's sake," occurs. Jer. 14.7, 21 are regarded by most scholars as genuine, although this is questioned by Stade and Duhm. Unless we would withhold from Ezekiel the credit for the formulation and first promulgation of this novel and significant doctrine and would instead ascribe it to Jeremiah, despite the fact that no passage in the present Book of Jeremiah offers an even half-way explicit formulation of this doctrine, we must conclude that at least Jer. 14.21 is not from Jeremiah, while in v. 7 we must, following Duhm and Cornill, read with *G l'ma'an eka*

to regard the vividly realistic formulation of this doctrine in Ps. 79 as conventional in any way and to assign it to a relatively late date. We must instead correlate it closely with some historic event, some destruction of Jerusalem, defilement of the Temple and massacre of the people not at all identical with the experience of 586 B. C., but rather a similar and perhaps an even more catastrophic event, which transpired some time after 570 B. C., or, even more precisely, after the dedication of the second Temple in 516 B. C., and yet not too long thereafter for the doctrine of "for His name's sake" to have begun

for the present *l'ma'an šemeka*. And since it can not be questioned that Jeremiah's doctrine of the eventual restoration from Exile was the source of Ezekiel's doctrine of "for His name's sake," and since also some time had to elapse after Jeremiah's promulgation of his doctrine of restoration for its implications to become clearly understood and evaluated and to give occasion for the formulation of the new and dependent doctrine of "for His name's sake," and since, moreover, Ezekiel's formulation of the doctrine has a specific historical background and manifests all the earmarks of originality, any conclusion is impossible other than that Ezekiel must have been the author of this new doctrine, and that therefore Jer. 14.21, and probably v. 7 also, must be secondary where they stand, and that too, since the reference in them to the doctrine of "for His name's sake" is quite conventional, from not too early a date. Actually Jer. 14.19-21 could well be omitted as an interpolation into its present context and leave a smoother and logically more consecutive text (cf. Duhamel to the passage), and possibly 1-9 also.

That Ezek. 20.9, 14, 22 are not from Ezekiel himself is beyond question. Whether Ezek. 20 contains an originally genuine nucleus, or whether the entire chapter is secondary, as Hölscher (*op. cit.*, 108-110) maintains, need not concern us here. This much, however, is certain, that since, as we have seen, the doctrine of "for His name's sake" could have been formulated by Ezekiel only near the end of his prophetic career, and only sufficiently long after the commencement of the Babylonian Exile for it to have become clearly realized that Jeremiah's confident expectation that, because of the anticipated suffering and attendant discipline of the Exile, the people would become repentant and completely regenerate, and thus would come to merit national restoration, was completely unjustified and remained unfulfilled, it follows unmistakably that the reference in Ezek. 20.9, 14, 22 to the doctrine of "for His name's sake" as a principle already so well established that its implications are clearly understood and need no further elucidation can not come from Ezekiel himself, but must be of secondary authorship. They too are almost conventional and stereotyped in character and import and come obviously from a late redactor.

A typical instance of the conventional use of the doctrine of "for His name's sake," or rather of the stereotyped expression, *l'ma'an šemô*, is to be found in the first of the Eighteen Benedictions, one of the basic and earliest elements of the liturgy of the Synagogue, the composition of which must probably be set in the middle of the post-exilic period of Jewish history (cf. Kohler, *The Origins of Synagogue and Church*, 65-80). Also in the N. T. the expression, "for His name's sake" (with, of course, the necessary variations of the personal pronoun) is likewise almost completely stereotyped in form and meaning (Matt. 10.22; 19.29; 24.9; Mk. 13.13; Lk. 21.12, 17; Jn. 15.21; Acts 9.16; III Jn. 7; Rev. 2.3).

to lose its realism and cogency and to have become conventional and formal. All this fits precisely the second national catastrophe, the detailed account of which we are endeavoring to put together piece by piece.

This conclusion finds convincing confirmation from within the psalm itself. The ruthless and destroying enemy here is not a single nation or people, neither the Babylonians of 586 B. C. nor yet the Persians of 344 B. C., but several nations; for both vv. 1 and 6 speak of these nations in the plural. Moreover, they are the nations which are the immediate neighbors of Israel, those dwelling directly adjacent to it,<sup>55</sup> those therefore who, quite naturally, should have been the very first to recognize Yahweh's world-wide power and authority and to accord unto Him the respect which He demands of them. These can be neither the Babylonians nor the Persians. They can be only the Edomites, Moabites, Ammonites and Philistines, and perhaps along with them others of Israel's close neighbors, the very same enemies therefore as are envisaged in Lam. There can therefore be not the slightest doubt that both Lam. and Ps. 79 deal with the same historic event. And to this it may be added that the statement of v. 4, that, as the result of its conquest and destruction, Israel has become to its neighbors, those dwelling immediately round about it, an object of mockery and insult, agrees perfectly with the bitter denunciations of Ammon, Moab, Edom, the Philistines, and Tyre which we found in Ezek. 25.1-36.15.<sup>56</sup>

This same picture is unfolded again, and in somewhat greater detail, in Ps. 74. Vv. 3-7 recount vividly the destruction of the Temple. Obviously this destruction was thorough and was carried out in a manner which indicates that something more impelling than mere desire for conquest and booty must have animated the victorious enemy. Other considerations, and particularly an extreme and vicious hatred of the Jewish people and all that they held sacred and precious, and seemingly also an eagerness for revenge or something bordering thereon, alone could account for the utter ruthlessness of the destruction. And certainly these motives could not have animated the Babylonians in 586 B. C. nor yet the Persians in 344 B. C. But they were

<sup>55</sup> Vv. 4, 12.

<sup>56</sup> Cf. also Lam. 5.1-2; Neh. 1.3; 2.17; Ps. 44.14; 89.42. Ps. 80.7 voices the same thought. In fact the entire Ps. 80, despite the seemingly corrupt state of a considerable portion of its text and the consequent obscurity of many of its references, seems to deal with the same unhappy, catastrophic, national experience as Ps. 79, and therefore to have been composed at about the same time, or perhaps, as may be inferred from the expression of the persistent faith of the people, just a little later.

the very motives which Ezek. 25.1-36.15 ascribes to the Edomites, Moabites, Ammonites and Philistines in their war against the Jewish people. The Temple was sacked and defiled; its beautifully carved woodwork was hacked to pieces; then it was set on fire; apparently it was destroyed completely. Likewise the sanctuaries throughout the country, the synagogues in other words,<sup>57</sup> were burned. The conquering enemy seemed to delight in blaspheming Yahweh instead of rendering homage unto Him, and in mocking at His name instead of glorifying it; in other words, in deliberately going counter to the program which, according to the doctrine of "for His name's sake," Yahweh had purposed for them.<sup>58</sup> That this psalm deals with the same historic event as Ps. 79 has been recognized by practically all scholars. It was probably composed quite soon after Ps. 79, for it seems to picture a condition of national suffering somewhat longer enduring than in that psalm and a deeper national despair, coupled with a steadily growing longing for revenge upon the oppressors.

Ps. 83 too deals unquestionably with the same historic episode, but obviously from a moment somewhat earlier than that envisaged by both Ps. 79 and 74. The conquest and destruction have not yet begun.

<sup>57</sup> That *mô'adê 'El* in v. 8 can not mean "feasts" (so Battenwieser) or "festivals" (so Briggs), nor yet merely "assemblies" (so Barnes and Oesterley) is, despite Gunkel's argument to the contrary (cf. his *Commentary* to the passage), proved by the verb, *sar'fû*, "they burned." The action connoted by this verb and likewise the plural of the noun, coupled with the term, *ba'areš*, "in the land" (or perhaps "out in the country," i. e. in the towns and villages), indicate that these must have been concrete objects which could be burned, buildings, local places of worship. That they could have been only synagogues (so Duhm), and not at all the former, pre-Deuteronomic high-places, restored to their original use, and that the Synagogue had its true, historic origin in Palestine, and not in Babylon, as is generally assumed, and also that it was one of the earliest, concrete outgrowths of the Deuteronomic Reformation in 621 B. C., I have attempted to demonstrate in a short study, published quite recently ("The Origin of the Synagogue," in *Studi Orientalistici in Onore di Giorgio Levi Della Vida* [Rome, 1956], II, 192-201). Obviously the word, *mô'ed*, a *miqtil* formation, connoting the place where the action implicit in the stem (*wa'ad*, "to assemble") transpires (cf. Barth, *Die Nominalbildung in den semitischen Sprachen*, 242, 264), has etymologically the fundamental meaning, "place of coming together." Of this the Greek, *synagogê*, would be a literal translation.

<sup>58</sup> Vv. 12-18 are unquestionably a rather late, didactic interpolation and have no immediate connection with the thought and purpose of the psalm proper. V. 19, with Yahweh as the subject of the verbs, is obviously the direct continuation of v. 11, and not at all of v. 18. With this interpolation and likewise v. 2, probably also of the same character, omitted, the psalm becomes a perfect unit of thought and literary form, an agonizing cry of the stricken people, first for deliverance from their still present and crushing sufferings, and then for revenge upon their ruthless enemies.



In fact the psalm records only the one, but quite significant, fact, that a host of nations have conspired together, have formed a secret coalition for the explicit purpose of destroying Judah so completely that never again will its name be mentioned, that it will cease utterly to exist as a nation, and that, precisely as in Ezek. 35.10-12; 36.2-5, its territory will become their possession. But this plot the Psalmist views with almost perfect equanimity, for he has complete faith in Yahweh, in His beneficent purposes towards Israel and in His absolute power to protect His people from any danger, no matter how threatening it be. Therefore he beseeches Yahweh to conquer and destroy these hostile nations, to achieve over them a victory which might compare in its decisiveness and the resultant glorification of Yahweh with the greatest victories of Israel's past, even with that over Sisera in the Kishon Valley and the victories over the Midianites of Gideon and Yerubbaal.<sup>59</sup> One of the most cherished fruits of such a victory would be that these nations would thus be compelled to realize and acknowledge, what they have thus far stubbornly refused to do, that Yahweh is indeed a world-god, even the supreme God of the entire universe; for only thus can they be brought to know Him and show the respect due His glorious name. In this confident expectation we may see not only another expression of the doctrine of "for His name's sake," but also, in the affirmation that Yahweh alone is God, the influence of Deutero-Isaiah.<sup>60</sup> That the psalm is of post-exilic date is beyond question, and that it refers to the same historic event as Ps. 74 and 79, the destruction of Jerusalem and the Jewish nation by a coalition of hostile nations, is equally certain.

In fact this psalm mentions these nations by name; and herein lies its chief significance for us. Among them are listed Edom, Moab, Ammon, the Philistines, and Tyre, the very same nations which are denounced in Ezek. 25.1-36.15. Moreover, v. 9 records the significant fact that Assyria had leagued itself with these nations and had made itself a strong support to "the sons of Lot," i. e. to the Ammonites and Moabites. The mention of Assyria here causes at first not a little confusion. If the word must be interpreted literally, then the psalm must necessarily be dated in the pre-exilic period and be correlated

<sup>59</sup> For the outstanding character of these victories over the Midianites as traditional and convincing evidences of Yahweh's supreme power, cf. also Isa. 9.3; 10.26, both passages of post-exilic composition.

<sup>60</sup> V. 19. In this v. the word, *šim'ka*, is out of place and should be transposed to precede *'elyôn*. This transposition makes the thought of the v. perfectly plain and likewise recovers the original 4/4 meter of the distich and restores its parallelism. The necessity of just such a transposition as this is indicated by G, V and S.

with some historic event which transpired before the end of the Assyrian Empire in 612 B. C. However, with apparently the single exception of König, Biblical scholars are agreed that, as used here, the term may not be understood literally, and therefore can not designate the Assyrian Empire. The vast majority of scholars interpret 'Aššûr here as meaning Syria.<sup>61</sup> Briggs and Staerk, following Theodoret, hold that Samaria is referred to by this term.<sup>62</sup> Gunkel identifies Ashur here with the Ashurites, a nomadic or semi-nomadic tribe mentioned in Gen. 25.3, 18 and perhaps also in Num. 24.22, 24.<sup>63</sup> Ewald and Bittenwieser, seemingly alone among Biblical scholars, hold that by Ashur Persia is meant.<sup>64</sup>

The argument generally advanced against this interpretation here is that it is impossible to conceive of Persia, the great world-empire, being attached, impliedly in a subordinate relationship, to Moab and Ammon.<sup>65</sup> But the expression here employed, *niwāh*, actually implies no more than the idea of association, confederation, and in no way carries with it the implication of the attachment of a subordinate to a superior. And we shall see that not only does Ashur here designate Persia, but also that the association here implied is not at all that of subordination, but has a very real, historic background, and one in which Persia is indeed the dominant power. That 'Aššûr frequently designates Persia in Biblical writings is amply attested.<sup>66</sup> The rôle of

<sup>61</sup> Hitzig, Olshausen, Cheyne, Wellhausen, Duhm, Baethgen, Kent and others identify it with Syria, i. e. the Seleucid Empire.

<sup>62</sup> Briggs in fact goes so far as to emend 'Aššûr to *Šômron*, Samaria.

<sup>63</sup> In this he is followed, though somewhat hesitatingly, by Oesterley.

<sup>64</sup> Cf. Bittenwieser's convincing discussion of this question (*The Psalms*, 474). His citation of Ezra 6.22 is the capstone of the evidence that in post-exilic Biblical literature the older name, 'Aššûr, is used to designate Persia. Barnes, however, challenges this interpretation.

<sup>65</sup> The same argument, if valid, would of course apply with equal, or even greater, cogency to the identification of Ashur here with the Seleucid Empire.

<sup>66</sup> In Ezra 6.22 this usage is apparent upon the surface. Also in Isa. 11.11, 16; 19.23; 27.13; Zech. 10.10, where Ashur is one of the chief countries of Israel's exile, it is certain that Persia, and not at all Seleucid Syria, is meant (so possibly Mic. 7.12 also). Accordingly in Isa. 19.25, and also in Mic. 5.4, 5, and quite probably also in Isa. 14.25; 30.31; 31.8 and in all likelihood in Num. 24.24 (Gunkel to the contrary notwithstanding; for certainly, despite the fact that in v. 22 'Aššûr might perhaps designate the nomadic Ashurites, in v. 24 the statement that Ashur will be devastated by Cyprian ships, i. e. will be devastated from the sea, with its implication that the country here called 'Aššûr lies close to the sea-coast, precludes the possibility of identifying 'Aššûr here with a desert tribe. Apparently vv. 22 and 24 are the work of different authors and probably also were composed at different times.) 'Aššûr signifies Persia. It was obviously a cryptic name, current in Palestine during the period of

the Ishmaelites, of Gebal and of Amalek here is not clear, nor is it possible to determine precisely just what peoples or perhaps nomadic tribes the Psalmist has in mind here,<sup>67</sup> when he employs these terms. But this much is manifest, that the federation of allied states and peoples, banded together for the purpose of conquering and destroying Judah and Jerusalem and the Jewish nation, consisted of Edom, Moab, Ammon, the Philistines and Tyre, and that in addition to their own strength, and probably also to the added strength given to the league by the attached nomadic or semi-nomadic tribes, no doubt intent upon booty, they enjoyed likewise support of a certain kind and extent from Persia, the dominant nation.

Certainly it is to this same tragic, national experience that Ps. 60<sup>68</sup> likewise refers. The theme of this psalm is the conquest of the Jewish nation and its resultant intense suffering at the hands of a ruthless enemy. Not all the references are clear; but this much is definite, that Moab, Edom and the Philistines are represented as the chief forces in the enemy ranks and therefore as the objects of Yahweh's eternal and implacable wrath because of what they had done to His people, Israel. This they had been enabled to do only because for the moment He had been angry at His people, presumably because of faithless or sinful conduct on their part, and so had withdrawn His protection from them and no longer, a statement, as we shall see, of deep, historic import, went out with their armies to battle. But now He had hearkened to their supplications, had restored them to His

Persian domination, to designate the oppressive and hated ruling power in a manner which, so it must have been thought, would not be readily comprehended by the Persians, just as in the later period of Roman dominion over and oppression of the Jewish people the name, Edom, was used in rabbinic literature to designate Rome. That '*Amalek*' was used in similar, cryptic manner, and probably also to designate Persia, in Num. 24.20; Deut. 25.17, 19 is likewise certain; for without this assumption the statement of Num. 24.20, that '*Amalek*' is the chief of the nations, but it is destined for destruction, is utterly meaningless and preposterous. Undoubtedly it was this cryptic use of '*Amalek*' as a by-name for Persia which led to the repeated designation in Esth. (3.1, 10; 8.3, 5; 9.24) of Haman, the arch-exemplar of Persian or Seleucidian hostility to and oppression of the Jews, as the Agagite, a name unquestionably derived from Agag, the traditional Amalekite king (1 Sam. 15.8 ff.).

<sup>67</sup> *Gēbal* here means, of course, Byblos. The Byblians may well have been associated in this anti-Jewish enterprise with the Tyrians and other Phoenicians (cf. the Sidonians in Ezek. 27.20-24). Not at all improbably '*Amalek*' here, and also the Ishmaelites and Hagrites, may designate some nomadic or semi-nomadic tribes, who, attracted by the promise of rich booty, had attached themselves to the army of the hostile, allied nations.

<sup>68</sup> Note that Ps. 108.7-14 is an almost verbatim reproduction of 60.7-14. Likewise v. 12 of both psalms is an almost exact repetition of 44.10.

favor and had turned His anger instead against their enemies. So once again Israel may hope that with Yahweh's help, impliedly, as we shall see, with Him again going forth with their armies, when He would Himself tread down their adversaries, they may look forward confidently to victory and restoration of national existence, dominion and power.

This psalm seems to be of somewhat later composition than any of the other psalms already considered. It looks back to a period of grievous suffering and national degradation on the part of Israel at the hands of ruthless enemies. Among these Edom, Moab and the Philistines are outstanding. They had sought to gain possession of the greater part of Palestine, both east and west of the Jordan; but Yahweh affirms that these lands are His and of them He reclaims possession. Israel accounts for its misfortune and attendant suffering by the assumption that it must have sinned against Yahweh, wherefore He became wroth with it; but there is scarcely any intimation wherein its sin had consisted. Israel is still plunged in the depths of its suffering; but seemingly a ray of hope of divine pardon and of eventual restoration to divine favor has just begun to shine forth and restore the faith and assurance of the people. Once again, in this psalm there is absolutely nothing which points to the experience of 586 B. C. as the national calamity in question. The arraignment of Edom and Moab as Israel's enemies and the objects of Yahweh's wrath precludes this conclusion. The catastrophe here envisaged must be one altogether other than that of 586 B. C. And since in all of its pre-exilic history Israel suffered at the hands of these nations, together with the Philistines, and particularly of all these nations acting in concert, no such national catastrophe as that which this psalm indicates, at least so far as historical records attest, the conclusion is inescapable that the reference is to some post-exilic event; and this can be only the national cataclysm to which the other Biblical passages already interpreted obviously refer.

Likewise of far-reaching importance for this study is Ps. 44. By most commentators this psalm too is regarded as Maccabean. Briggs, Gunkel, Battenwieser and Oesterley seem to be the only scholars who do not accept this opinion. They too agree, however, that the psalm is post-exilic. Gunkel and Oesterley find no particular, historic occasion with which they might correlate this psalm. Neither does Briggs, although he assigns it rather arbitrarily to the late Persian period. Battenwieser, pursuing his normal, greatly overworked theory, would link the psalm with his, largely imaginary, reconstruction of the events of 344 B. C., or else, and with somewhat greater probability,

so he holds, with those of 312 B. C., when Jerusalem was captured by Ptolemy Lagos.

The psalm consists of four separate but closely related sections or strophes, and so constitutes a perfect unit of thought and purpose and of poetic form. In strophe I, vv. 2-9, the Psalmist reviews in retrospect the wonderful manner in which Israel had in ancient times been established in Palestine and had come to supplant the original inhabitants of the land, not at all through its own might, but entirely through Yahweh's help and His unqualified favor towards it. Israel's own sword and military prowess did not avail it, but the fact that Yahweh was fighting on its side alone sufficed to give it victory, to expel the pre-Israelite population completely from the land, and thus clear it for Israel's settlement therein.

Strophe II, vv. 10-17, contrasts this happy state of old with Judah's present, sad condition. Yahweh has become angered with His people and has let them be put to shame, and no longer goes forth into battle with their armies.<sup>69</sup> The consequence of this is that Judah, now totally unable to defend itself, has had to flee, and so has become the helpless prey of vengeance-seeking enemies. Already the enemy has massacred freely and has also begun to disperse Judah among the nations, obviously, as v. 13 implies, and as we shall see amply confirmed, by selling the captured Jews as slaves. The number of these captives must have been so very great that the price of slaves in the great slave-markets of Western Asia fell quickly to an insignificant sum, with the result that there was little profit in the sales.<sup>69a</sup> In consequence Judah has become an object of mockery and derision to its neighbors, to the nations immediately adjacent to it,<sup>70</sup> enemies which do not hesitate to blaspheme Yahweh,<sup>71</sup> and which are bent upon avenging upon Israel wrongs real or fancied.<sup>72</sup>

In strophe III, vv. 18-22, the Psalmist, speaking as the voice of the people as a whole, affirms absolute innocence of any faithlessness or wrong-doing which would justify such suffering as merited punishment from Yahweh. Despite all their grievous affliction the people have not forgotten Him, nor have they betrayed their covenant with Him nor turned from His service and way of life to follow after other gods, even though He has permitted all this to befall them, with the

<sup>69</sup> The very thought which we found expressed in Ps. 60 (=108).12.

<sup>69a</sup> V. 13.

<sup>70</sup> This thought too is expressed, and in almost identical language, in Ps. 79.4.

<sup>71</sup> Cf. Ps. 74.18; 79.12.

<sup>72</sup> Cf. Ezek. 25.12.



result that they are now on the verge of extinction. All this He must know perfectly, since He understands even the innermost impulses of heart and mind.

Accordingly, so strophe IV, vv. 23–27, affirms, He must know full well that it is only because of Him that Israel is being slaughtered unceasingly. Therefore, conscious of his complete innocence, the Psalmist, still speaking as the personification of the suffering and distraught nation, pleads passionately with Yahweh to wake and sleep no longer, to bestir Himself and reject His people no further; for how can He justify His persistence in hiding His face from it and continuing to disregard its affliction? For now in truth Judah is crushed to the ground, has reached the nadir of suffering and humiliation; therefore let Yahweh now rise to its help and redeem it, in fulfillment of His covenant obligation to it.<sup>73</sup>

In many respects this psalm is striking. The unshakable conviction of the Psalmist that Israel's bitter sufferings are in no wise merited as divine punishment for its sins, is repeated again and again in other writings which must be linked with this same catastrophic event in Jewish history.<sup>74</sup> Also his bold and defiant affirmation that it is Yahweh Himself who has not kept faith and fulfilled His covenant obligations to His innocent people, and that it is only because of Him and His seeming indifference and neglect that Judah now suffers so grievously, is an implicit challenge of divine justice distinctly anticipatory of the Book of Job. Were there no evidence other than this, we would still conclude that the psalm must be of post-exilic date. Yet in all this there is absolutely nothing which suggests that it should be set in the late post-exilic period, after 344 B. C. or perhaps even later.

The picture of Judah's state which this psalm unfolds is sad indeed. Judah has already been overwhelmed in battle by its enemies, the nations immediately contiguous to it. The fact that these nations are referred to collectively suggests strongly that they had formed a coalition against Israel, the precise circumstance which we have found in all the Biblical passages already considered, and had invaded its

<sup>73</sup> For *hesed* with the connotation "covenant obligation" cf. Glueck, "Das Wort *hesed* im alttestamentlichen Sprachgebrauche als menschliche und göttliche gemeinschaftsgemässe Verhaltungsweise," *BZAW*, no. 47 (1927). However, it is significant that for *hasdēka* both *G* and *V* read *šimēka*, "Thy name." Were this the original reading here, we would have here another unmistakable expression of the doctrine of "for His name's sake," convincing evidence of the post-Ezekelian authorship of this psalm; and indeed the thought of section IV of this psalm is closely akin to the doctrine of "for His name's sake."

<sup>74</sup> As, for example, Isa. 63.15–64.11; cf. below, pp. 147–150.

territory. Its armies had been defeated. Vast numbers of the people had been captured and sold as slaves, and that too, impliedly, because they were so many, at a price ridiculously small. The survivors of this catastrophe have sunk to the lowest depths of misery and despair; they seem on the verge of extinction. Both the language and the thought of the psalm are distinctly reminiscent of Ps. 60 and 79. There is no reason to doubt that one and the same historic experience is the background of all these psalms as well as of all the other Biblical passages thus far analyzed and interpreted.

But, quite significantly, this psalm says not a word about the capture and destruction of Jerusalem and the burning of the Temple, the major theme, as we have seen, of Ps. 74 and 79, nor is there here the slightest intimation thereof. Yet, had Judah already suffered this most bitter blow of all, the Psalmist could hardly have been completely silent with regard thereto. Perhaps then this psalm records a stage in the unfolding of Judah's national tragedy slightly earlier than that depicted in those two psalms. But although the cup of Judah's suffering and humiliation, as portrayed in Ps. 74 and 79, is not yet filled quite to the brim, none the less, as limned in Ps. 44, the picture of Judah's fate is sad indeed. The ruthless massacre of its people we have read of before. But the sale of its sons and daughters in vast numbers as slaves, obviously in the slave-markets, not of Palestine itself, but of other lands, is an altogether new shadow in the picture. And here we must realize that after this wholesale massacre and the ensuing, extensive sale of the captives, taken in and after the battle, what would be left of the people would be just the tiny, pitiful fragment which in 445 B. C. Nehemiah described so poignantly as "the remnant left from the captivity." And we see now that the "captivity" would be the very situation which was caused by the selling of a large section of the Jewish people into slavery in foreign lands. Just this is the precise implication of the term *š'bi*, "captivity," particularly as contrasted with *galūt*, "exile,"<sup>75</sup> the condition of a minority section of the Jewish people in 586 B. C.

Still another psalm illumines the tragic incident with which we are dealing, and that too in somewhat startling manner, Ps. 2. I have elsewhere<sup>76</sup> proposed a textual reconstruction of this psalm, and especially of the troublesome and oft-discussed v. 12a. Thus reconstructed, the psalm reads:

<sup>75</sup> Cf. above, note 14.

<sup>76</sup> *JQR* (n. s.) XXXII (1942), 371-385.

1. Why do nations rage and peoples contemplate vain things?
2. The kings of the earth take counsel together, and princes enter into secret conspiracy, against Yahweh and against His anointed one;
3. Let us tear off their bonds, and let us cast their yoke from us.
4. He who dwells in heaven laughs; Yahweh<sup>76a</sup> mocks at them.
5. Then he speaks (His decree) concerning them, and in His burning anger He confounds them.
6. Verily, I have anointed My king, upon Zion, My holy mountain.
7. I will recite unto him My statute; I will say to him: My son art thou; this very day have I begotten thee.
8. Ask (aught) of Me and I will give it. I will make nations thy heritage, yea, the ends of the earth thy possession.
9. Thou shalt crush them with a scepter of iron; as a potter's vessel shalt thou shatter them.
10. So now, O kings, act prudently; take warning, ye rulers of the earth;
11. Serve Yahweh with reverence, and come eagerly, with trembling, before Him.
12. Glorify His name, lest He be angered, and ye perish from the way; for His anger flares up instantly; happy are all who trust in Him.

At first glance there seems little in this psalm to connect it with the event in Jewish history which we are endeavoring to recover. It will be wise therefore to first examine the psalm by itself. The scene which it depicts seems to be the following: Judah has been cherishing hopes and devising plans of conquest of and dominion over other nations. In the successful execution of this program it is to be led by a divinely chosen, anointed king. With the direct and assured help of Yahweh Himself this program is certain to succeed. For mutual self-protection against this warlike purpose of Judah, which promises to affect them all equally, each in turn, the kings and rulers of the various nations threatened, and these must be, of course, in first degree those dwelling in immediate proximity to Israel, take counsel together, form a secret coalition and elaborate their plans for self-defense, and even for aggressive action against Judah, in order to free themselves from the threat of subjection to Yahweh's people. But what need Judah fear? All their plans and efforts Yahweh will certainly frustrate and their power, whatever it may be, He will reduce to naught. Yea, on

<sup>76a</sup> Reading, with *G* and *S*, אדני יהוה for אדני.

this very day He has taken decisive action to inaugurate His program. He has anointed His chosen king in the Temple on Zion. To this king He will stand in the intimate relationship of father to son. Upon him He will bestow His favor. He will subdue nations beneath him and will make his dominion reach to the ends of the earth; in other words, world-conquest, world-dominion and world-empire are to be his divinely allotted portion. Therefore it behooves these kings to act prudently and to accept their destiny unresistingly. Let them offer homage to Yahweh reverently, and let them come tremblingly, though eagerly in the consciousness of privilege in so doing, before Him; for otherwise they must endure His wrath, whereas all who submit to Him and trust in Him are fortunate.

With regard to the dating and interpretation of no psalm has there been greater diversity of opinion. The unmistakable reference to the anointing of a king in the Temple at Jerusalem has inclined many eminent Biblical scholars to link this psalm with one of the pre-exilic kings of Israel or Judah, ranging all the way from David himself to Josiah; yet at the same time it is generally conceded that absolutely nothing in the psalm can point to its association with any one particular, pre-exilic king. For this reason chiefly, but also because of other cogent considerations, other scholars, equally eminent, interpret the reference to the king, particularly since he is here represented as Yahweh's own, acknowledged son, as apocalyptic and messianic, and therefore as voicing a prophetic hope, rather than as related to some one specific event in Israel's history. For the most part these scholars regard this psalm as of post-exilic composition.

That the psalm is indeed post-exilic there can not be the slightest doubt. If the proposed reconstruction of v. 12aa be approved, then plainly the v. gives expression to the doctrine of "for His name's sake." And in such case the psalm must have been composed in the post-Ezekelian period, but not so late therein that this doctrine had already become conventional and half-meaningless. But even if this reconstruction be not approved, none the less it must be admitted that the summons, in vv. 10ff., to the kings and rulers of the earth to acknowledge Yahweh as the world-Deity, i. e. as the one, universal God, and to render homage unto Him reverently, and to come tremblingly before Him, even though also with a feeling of gladness in being privileged to do so, indicates beyond all doubt post-exilic composition; for certainly not before Ezekiel's latest message, that of "for His name's sake," and its expansion into the universalistic teaching of Deutero-Isaiah, and perhaps not even until after the promulgation, following the dedication of the second Temple, in

516 B. C., of the program of the proselytism of the nations to Judaism and the worship of Yahweh as the one, true, universal God<sup>76b</sup> could the thought set forth in these vv. have found such vigorous and assured expression.

But if it be granted, for the moment tentatively at least, that the psalm is post-exilic, and also that it is not apocalyptic and speculative, but must be linked with an actual event in Jewish history, then it follows immediately that the king to whom reference is made can not be Zerubabel, for v. 6 certainly implies that the Temple is standing; and such was not the case in 520 B. C., at the time of the Zerubabel rebellion.<sup>77</sup> But, it may be argued, between that abortive attempt to throw off the Persian yoke, regain political independence and nationhood for the Jewish people, and set Zerubabel, a scion of David, upon the throne, in 520 B. C., and the establishment of the Asmonean dynasty almost four hundred years later, we know of no native king or ruler of the Jewish nation to whom this psalm might refer. Then suddenly we remember that Lam. 4.20 runs thus: The breath of our nostrils, Yahweh's anointed one, was caught in their traps, of whom we said: In his shadow will we live among the nations. Those who, according to this v., laid the traps were, as we have learned, the Moabites, Ammonites and Edomites. In fact the very next v., v. 21, continues with a scathing denunciation of Edom and announcement of its impending doom. This passage suggests that at the time the great catastrophe befell Jerusalem a king, an anointed one, chosen by Yahweh, and therefore presumably a descendant of David, one who, like all the posterity of David,<sup>77a</sup> stood in the Father-son relationship with Yahweh, even as v. 7 states specifically, was either ruling over it and over the Jewish nation, or was at least endeavoring to establish such rule. Moreover, the popular anticipation of the destined achievements of this king, implicit in the words, "in his shadow will we live among the nations," suggests not merely regained political independence and restored nationhood, but possibly even a program of world-conquest and world-dominion such as is plainly envisaged in

<sup>76b</sup> Morgenstern, "Two Prophecies from 520-516 B. C.," *HUCA* XXII (1949), 365-431.

<sup>77</sup> According to Hag. 1.12, 14-15; Zech. 6.12-13a the rebuilding of the Temple was to be the first specific task of the restored, Davidic king; in fact the only specific task for him envisaged by these two prophets, and obviously a major consideration in the aspiration of each for the restoration of the monarchy.

<sup>77a</sup> This theme, of paramount importance for the complete understanding of the historic event which we are investigating, will be considered carefully and in detail in due time and place.



Ps. 2. Manifestly then the assumption that Ps. 2 deals with a specific event in the history of the Jewish people in the early post-exilic period is not too far-fetched to merit responsible consideration.

But if Ps. 2 may thus be linked in import with Lam. 4.20 f., then it follows necessarily that the nations of Ps. 2.2-3, who have formed a coalition against Judah, must be the very same nations of whom we read again and again in the Biblical passages which we have already interpreted, Edom, Moab, Ammon, the Philistines and their various allies, especially Persia, those nations who, banded together in close federation and animated by bitter antagonism, invaded Judah, defeated the Jewish army, massacred the Jewish people ruthlessly and sold vast numbers as slaves, and finally besieged and captured Jerusalem, laid it in ruins, destroyed its walls, and burned the Temple. But if this be granted, then it follows necessarily that Ps. 2 pictures the reactions of the Jewish people in Jerusalem at the very beginning of this campaign, when for the first time they hear of the coalition of these neighboring nations against them and of their contemplated invasion of Judah. Trusting implicitly in the promised help of Yahweh and in His announced purpose to give Israel, not merely political independence, but also actual world-dominion, under the leadership of its new king, just anointed on this very day, the Psalmist voices graphically the confidence of the people that this undertaking of the federated nations will come to naught, that Yahweh will speedily frustrate the purposes and plans of these allied kings and reduce them to their proper position of subjection and humility.<sup>78</sup> Obviously this psalm pictures almost the very first act of the tragic drama which we are reconstructing.<sup>79</sup>

Ps. 2 seems then to record a hope, and even a seemingly confident expectation, generally current, at least in certain sections of the little, post-exilic Jewish people, that it was destined for great things, not merely for the restoration of political independence and nationhood

<sup>78</sup> Ps. 21 may well be a companion piece to Ps. 2. composed but very little later. Here the king is already enthroned, although he has apparently been crowned only quite recently (v. 4). To him Yahweh has promised an everlasting dynasty (vv. 5, 8). The enemies of the king and of the nation are already devising hostile plans, but with God's assured aid these are certain to come to naught (vv. 9-13). The setting and point of view of this psalm are almost identical with those of Ps. 2. Ps. 20 likewise seems to deal with almost the same situation as, and to be only slightly later than, Ps. 21; for in it too the confidence of the people in their king and in the assurance of victory and triumph through divine aid is still unshaken.

<sup>79</sup> The chronological order of composition of the psalms which we have thus far analyzed, in relation to the gradual unfolding of the national tragedy which they record, seems to be, 83, 2, 21, 20, 44, 79, 70 and 74, 80, 60 (= 108).

under a new, Davidic king, but also for world-conquest, world-dominion and world-empire.<sup>80</sup> It does not follow that this hope was cherished by the entire people; but unquestionably in certain groups, or perhaps in a certain party, it found ready and even eager acceptance. Moreover, v. 3 implies clearly that these hopes and plans were well known to other nations and peoples, and, of course, first of all, to Judah's immediate neighbors, those who would be the very first to be affected by any attempt to carry out this program. Obviously they viewed these plans with deep misgiving. This would account for the bitter hatred of Judah on the part of certain of its neighbors, which we have found recorded in a number of the Biblical passages which we have analyzed. It would account equally well for the exultation of Moab and Edom<sup>81</sup> that the Jewish people had become like all the other nations, obviously in that its dreams of superiority and world-domination had collapsed completely, and that instead the little people had been reduced to low and sad estate, that in fact the very fate which it had dreamed of imposing upon its neighbors had now befallen it in fullest measure. In the light of the revealing thought of Ps. 2.3, supported by the equally revealing vv. 8-9, the full import of the various Biblical passages which we have analyzed thus far becomes much more comprehensible.

However, despite the seemingly explicit language of v. 3, there is no reason, at least no compelling reason, to believe that Judah had already actively launched its program of world-conquest. This is the implication also of vv. 6-8; for unquestionably in the execution of this program the king was expected to play an indispensable role; and according to v. 6 this king had been anointed only upon that very day,<sup>82</sup> while, according to v. 8, world-dominion was to be granted to him only in the days to come.

<sup>80</sup> Mic. 4.8-13, excluding v. 10b, unquestionably a harmonistic interpolation, a passage generally regarded by commentators as post-exilic, seems to refer to this same historic event and to be but slightly later in the chronological sequence of the tragedy which it depicts than Ps. 2. Here the nations are represented as having gathered and as already advancing against Jerusalem. But the author of the passage affirms, with the very same confidence as is expressed in Ps. 2, that all this is in conformity with God's plan for their conquest, destruction and despoliation by Judah. To this passage v. 14 was appended after the tragedy had reached its end. Briefly and effectively it records the failure of these lofty hopes, the sorrowful fate of Jerusalem, and the unhappy end of the once proud and hopeful king, in a manner which supplements helpfully Lam. 4.20.

<sup>81</sup> Ezek. 25.8.

<sup>82</sup> However, it is quite possible and even probable that he may have already been functioning as king for some weeks or even months. This act of anointing, and this

On the other hand, the statement of Ezek. 25.12, 15, coupled with that of 35.5, that both Edom and the Philistines cherished a bitter and eternal hostility against Judah, which seems to have transcended greatly the animosity of all the other federated nations, and were seeking to execute vengeance upon the little Jewish people, seems to imply that at least in relation to these two nations, its most immediate neighbors, Judah may have already done something more substantially hostile than merely to cherish a hope of conquest. Certainly this enmity and desire for revenge can not, despite the fact that it is characterized as "an eternal hostility,"<sup>83</sup> reach back to as early as 586 B. C., for, as we have seen, in the war against Babylonia at that time Edom, as well as Moab and Ammon, and presumably the Philistines also, had been Judah's close allies and had offered a ready refuge to those Judaeans who fled before Nebuchadnezzar. Whatever the cause of the hostility of Edom and the Philistines and of their desire for revenge upon Judah, it must have been of more recent origin than 586 B. C., and of course must have been something real, growing out of some actual experience, and not merely something imagined or threatened. But what this may have been neither the Biblical writings nor any other source give the slightest direct hint.

And here the question arises, could the little Jewish people at some time later than 586 B. C., and specifically in the early post-exilic period, have evolved and cherished hopes of world-conquest and world-dominion; and, if so, when, under what circumstances, and in what specific manner? This question we will undertake to answer, and that too in the affirmative, in due time. For the present it suffices to recognize that, if this hope and ambition did evolve in Judah, with such tragic consequences to the little people, it must have been at some time between the rebellion of Zerubabel in 520 B. C. and the coming of the deputation from Jerusalem to Nehemiah in the winter of 445 B. C.

too upon the New Year's Day, when the kings of Judah were regularly anointed, would mark his formal installation in the royal office and the official beginning of his first regnal year. The period preceding this day and this ceremony during which he functioned as king would have been regarded as his accession year; cf. Thiele, "The Chronology of the Kings of Israel and Judah," *JNES* III (1944), 137-186, and especially pp. 137-144 and the references there cited.

<sup>83</sup> Actually, despite the customary meaning of 'ôlam, "eternity," the expression, 'êbat 'ôlam, literally "eternal enmity," need not suggest that the beginnings of this hostility were necessarily in a period too remote; cf. the precise implication of the terms *hor'êbôt* 'ôlam, literally "ancient ruins" (Isa. 58.12; 61.4; the reference here is to the ruined state of Jerusalem and other cities and towns of Palestine, with which we are dealing in this study), *ke'îmmat* 'ôlam, "eternal shame" (Jer. 20.11), *yômat 'al'ema*, "days of eternity" (Ezra 4.15); cf. Sellin, *op. cit.*, 57.

This conclusion finds indirect confirmation in, and also some additional light is shed upon the details of the catastrophe by, Ps. 137.7-9. It is surprising indeed that, apparently without a single exception, commentators have regarded this psalm as a literary unit instead of recognizing that vv. 7-9 must be secondary, the work of a different author and age than those of the psalm proper, vv. 1-6. They have failed to see that vv. 7-9 must have been appended to the original psalm at a time and for a reason at which, for the present, we can only guess. Perhaps the basis of this literary join is the reference, or rather the seeming reference, to Babylon in v. 8; for, again, without a single apparent exception, scholars have interpreted this v. as an imprecation upon Babylon.

Careful consideration of the psalm reveals that an entirely new and unrelated theme is developed in vv. 7-9, the theme of extreme and pitiless revenge upon an enemy nation, bitterly, venomously hated for what it had done to the Jewish state or people. The hatred and the viciousness of the desire for revenge are far too extreme to justify application to Babylon; and actually they find no parallel reference to Babylon in all Biblical literature. But they do find abundant parallels in passages referring specifically to Edom, some of which we have already considered. Moreover, v. 7 mentions Edom by name, a procedure surprising indeed if Babylon is the object of hatred in the entire remainder of the psalm.<sup>84</sup> Furthermore, the reference in v. 9 to *hasela*, "the Rock," i. e. undoubtedly Petra,<sup>85</sup> indicates unmistakably that this v. too contemplates, not Babylon, but Edom. And since v. 9 is the inseparable continuation of v. 8, it follows that vv. 7-9 constitute a unit of thought and literary form, and that they refer, not to Babylon at all, but only to Edom.

<sup>84</sup> Actually the theme of vv. 1-6 is not at all hatred of Babylon and desire for revenge upon it. In fact in those vv. there is not the slightest suggestion of such motives. Rather the sole theme of those vv., and so of the psalm proper, is unquenchable love for Jerusalem and Zion and persistent loyalty to them; and this too on the part of an ardent Jew, who has *not* returned from Babylonian Exile, contrary to the opinion of practically all scholars, but is still languishing in exile far from his native Jerusalem, and so longs passionately to return thither. The initial experiences of the exiles are still very close and vivid to the author of vv. 1-6. He has obviously not yet succeeded in adjusting himself, as most of his fellow-exiles seem to have done (cf. Jer. 29.5 ff.), to the conditions of their Babylonian environment. He still struggles yearningly and almost hopelessly against this adjustment and longs passionately for his native land and city. The psalm must accordingly have been composed quite early in the Babylonian Exile, shortly after 586 B. C., or perhaps even 597 B. C. In fact the latter date seems the more probable, since in vv. 5-6 Jerusalem seems to be still undestroyed, a condition which no longer obtained after 586 B. C.

<sup>85</sup> Cf. 2 Kings 14.7; Isa. 16.1.

Furthermore, the application to Edom of the title, *bat Babel*, "daughter of Babylon," in v. 8, would have been appropriate indeed during the reign of Nabunaid (556–539 B. C.) and for a time thereafter, for, as we know, Nabunaid chose to make Teima, in north-central Arabia, in reasonable proximity to Edom, his residence and therefore in some measure the capital of the Babylonian Empire.<sup>86</sup> It is true that in Biblical language the term, *bat*, prefixed to the name of a city or country, normally connotes the city or country itself or else its inhabitants. But in Isa. 23.10 Tyre seems to be addressed under the title, *bat Taršiš*, "daughter of Tarshish," and in v. 12 of the same chapter by the title, *betûlat bat Šidôn*, "virgin daughter of Sidon." Furthermore, in Biblical vernacular the towns or villages which come within the range of influence of a metropolis or are in any way dependent upon it are regularly designated as *benôteha*, "its daughters."<sup>87</sup> Certainly then during the reign of Nabunaid and also for some time thereafter Edom could have been called very properly "daughter of Babylon."

Likewise the term *haš'dûdah*, "devastated," could apply to Edom<sup>88</sup> quite appropriately in the period when vv. 7–9 were composed and appended to the psalm. Just what period this was will be determined in due time. But this much this passage does attest, that the bitter enmity towards Edom, expressed in these vv., was cherished by the Jewish community of Palestine at some time in the period following the downfall of Nabunaid and the overthrow of the Neo-Babylonian Empire by Cyrus in 539 B. C., and in all likelihood had its cause and beginning in this same period.

These vv. have much in common, both in thought and language,<sup>89</sup>

<sup>86</sup> Dougherty, *Nabonidus and Belshazzar*, 105–160.

<sup>87</sup> Cf. Num. 21.25, 32; 32.42; Josh. 15.47; Jud. 1.27, *et passim*.

<sup>88</sup> As Bittenwieser has termed it, the emendation of the large majority of earlier commentators, following *S* and *Targ.*, of *haš'dûdah* to *haš'dêdah* "the spoiler," is "wanton." On the other hand, recognizing vv. 7–9 as an appendix to the original Ps., there is no need whatever to translate *haš'dûdah*, with Bittenwieser, by the future, "who is to be devastated." Rather the normal translation of the passive participle, "devastated," portrays the actual situation of Edom at the time of the addition of vv. 7–9 to the original Ps. At the same time it is not impossible that *haš'dûdah* modifies, not *bat Babel*, i. e. Edom, but only *Babel*, and refers then to the capture of Babylon by Cyrus in 539 B. C. However, it would be surprising were the state of Babylon then, but little disturbed by this conquest, described by a term as strong and vivid as *haš'dûdah*. It seems better therefore to interpret this participle as referring to *Bat Babel*, i. e. Edom, and as coming from a period when Edom had indeed been devastated by an invading enemy, the Nabataeans in all likelihood, the very same period and condition then as are referred to in Mal. 1.2–5.

<sup>89</sup> The "Day of Jerusalem" here is undoubtedly the same as the oft-repeated "Day" in Obad. 11–14, "the day of Jerusalem's and Judah's catastrophe."



with Obad. 11-14 and undoubtedly deal with the same tragic incident in the life of the little Jewish community of Palestine.<sup>90</sup> But, so recognized and interpreted, they add another vivid stroke to the unhappy picture of Edom's savage ruthlessness towards the conquered and helpless population of Jerusalem at the time of the great catastrophe, the story of which we are reconstructing piece by piece.

Further details of this picture are furnished by a number of additional Biblical passages. And first, Isa. 63.15-64.11.

## VI

### THE TESTIMONY OF ISA. 63.15-64.11

Isa. 63.15-64.11<sup>91</sup> records the poignant grief and almost hopeless despair of the Jewish people at the tragic fate which has befallen them. "Our oppressors have taken possession of Thy holy city;<sup>92</sup> our enemies have trampled Thy sanctuary. We are (as if) Thou hadst never had dominion over them, (as if) Thy name had not been proclaimed over them. If Thou wouldst rend the heavens and descend, before Thee the mountains would dissolve, (with the result) to make Thy name known to Thine enemies, (so that) nations might tremble before Thee."<sup>93</sup> Later the poet continues:<sup>94</sup> "For Thou dost hide Thy face from us and dost deliver us into the hand of our oppressors. But now, O Yahweh, our Father art Thou; we are the clay and Thou art our Potter; yea, we are all the work of Thy hands. Be not too exceedingly wroth, and remember not our sins forever; consider that Thy people are we all. Thy holy city has become a wilderness; Jerusalem have they made a desolation. Our holy sanctuary, yea, our glory, in which our fathers praised Thee, is something wasted by fire, and all our precious site has become a ruin. In the light of these conditions wilt Thou withhold Thyself, O Yahweh; wilt Thou be silent and let us be afflicted exceedingly?"

The picture is pitiful indeed. Jerusalem has been captured and

<sup>90</sup> Very interestingly and significantly, the Targumic paraphrase of v. 7 says specifically that the Edomites had destroyed Jerusalem.

<sup>91</sup> Isa. 63.1-6 is a literary unit, of which we shall have to treat later in this study. For Isa. 63.7-14, likewise a distinct literary unit, of psalmic character, cf. Morgenstern, "Isaiah 63.7-14," *HUCA* XXIII (1950-51), I, 185-204.

<sup>92</sup> V. 18; read *lôh<sup>a</sup>šēnu* for *lamiš'ar*; 'ir (or perhaps *har*, with *G* and *Syr. Hex.*) for 'am.

<sup>93</sup> 63.18-19; 64.1aβb. In 63.19 for *yaradta* read *w<sup>e</sup>yaradta*. 64.1aα is obviously a gloss, seemingly a fragment of some ancient and widely current adage.

<sup>94</sup> For the textual reconstruction of Isa. 64.4-11 cf. below, note 134.

laid in ruins. The Temple has been defiled and burned. The hopes of the people have been blasted. The hand of the ruthless oppressor rests heavily upon them. All earthly help, even the pleading of their traditional intercessors, the patriarchs, Abraham and Israel, is unavailing. Yahweh, their Deliverer from of old, alone can help them. But, alas, He seems indifferent to them and content to let them suffer to the very depths. Yet naught remains for them but to continue their appeals to Him, with the remote hope that something might recall Him to His obligation to His still faithful and trusting people. Moreover, even while the poet, speaking for the people, acknowledges that they are not sinless by any means, none the less, so he contends, Yahweh has not fulfilled His obligation to His people. Above all else, He has let them suffer far beyond their due. And so, reverently yet firmly and insistently, in much the same manner as the authors of Ps. 44 and 60, yet less defiantly and more pleadingly, he challenges Yahweh to fulfill His obligation to His people and to bestir Himself on their behalf. It is impossible not to see in this poem too, dealing obviously with a specific moment in the history of the post-exilic Jewish community of Palestine, a definite forerunner of the thought and theology of the Book of Job.

Clearly the sufferings of the people are of the immediate present and are bitter in extreme degree. The hand of the merciless enemy still rests heavily upon them. Manifestly the reference can not be to the destruction of Jerusalem and the Temple by the Babylonians, for even were we to assign this passage to Deutero- rather than to Trito-Isaiah, the experience of 586 B. C. would by 539 B. C. still have been too remote, its ravaging effects too largely repaired, and its wounds too completely healed to evoke an appeal as genuine and heart-rending as this. Nor can this poem be the work of Deutero-Isaiah, for in form, thought and spirit it is altogether foreign to that great prophet. Actually this is in no sense a prophecy. Rather it is a cry of national anguish, directed only to Yahweh. It voices no message nor appeal to the people. It envisages no universal salvation, no glorious service to the peoples of the earth on the part of a restored Israel, which has already suffered adequately, and even twofold, for its sins, and has thus been made ready for its larger, universal service. Nor is there here any suggestion that its travail is ended, its woe completed. Nor does Israel stand here upon the threshold of a new and happier era. There is here no thought of restoration to native land and of glorious destiny there, but only the crushing consciousness of destruction and of utter doom. True Yahweh is here a, or even the, universal God, whose name has been proclaimed over the

nations; but to this they pay no heed. Israel is still His peculiar people, which stands to Him in a relation of intimacy and mutual obligation such as no other nation or people enjoys. Clearly this poem can not be the utterance of Deutero-Isaiah. This is recognized by almost all modern Biblical scholars. But in its underlying thought it is certainly dependent upon both Ezekiel and Deutero-Isaiah.<sup>95</sup>

Obviously then it must be later than Deutero-Isaiah, i. e. later than 539 B. C. And, as the reference to the Temple indicates unmistakably, it must be later even than 516 B. C. Moreover, the description of the Temple as "the sanctuary in which our fathers worshiped Thee" establishes conclusively that at the very least a full generation must have elapsed since the Temple had been erected. This indicates a date at approximately 490 B. C. as the earliest possible moment when the catastrophe, so poignantly depicted in this poem, might have befallen the Jewish people.<sup>96</sup> And inasmuch as a catastrophe of such extreme character, of which the destruction of the Temple by a ruthless enemy was only one, but one of the most painful, of its experiences, could certainly not happen in the life of a single people more often, at the very most, than once in a century, we must conclude that the tragic catastrophe, of which Isa. 63.15-64.11 is the record, must be the very same as that basic to all the other Biblical passages which we have thus far interpreted.

Accordingly we have narrowed the potential moment of this tragic happening still more closely, to within a period from about 490 B. C. to, at the very latest, shortly before 445 B. C., the year in which the deputation from Jerusalem came to Nehemiah with its report that, contrary to Nehemiah's manifest expectations, Jerusalem was still in a ruinous state. It is a reasonable assumption that the event itself, which had reduced the city to this sad condition, and from the effects of which, it is apparent from his bitter disappointment, Nehemiah had confidently expected that by 445 B. C. Jerusalem would have very

<sup>95</sup> In 63.17; 64.1b faint echoes of Ezekiel's doctrine of "for His name's sake" may be heard, while in 63.16, 19; 64.2-3, 7-8 indications of the influence of Deutero-Isaiah may perhaps be dimly discerned.

<sup>96</sup> Sellin (*op. cit.*, 82) originally set the composition of Isa. 63.7-64.11 at about 470 B. C. and linked it to his hypothetical destruction of Jerusalem and the Temple in connection with the rebellion of Zerubabel, which he dated at between 515 and 500 B. C. However, three years after his promulgation of this thesis he repudiated it completely and instead, in agreement with Gressman and Littmann, assigned the entire passage to the period, 538-520 B. C. (*Entstehungsgeschichte der jüdischen Gemeinde*, II [1901], 127-131). Cheyne, followed by Bittenwieser, would link this passage with the persecution of the Jewish people by the Persians during the reign of Artaxerxes Ochus.

largely recovered, must have transpired quite some years earlier; for certainly recovery from a destruction so extreme that the walls were utterly ruined, the gates destroyed, and the city itself almost entirely depopulated, would have required more than merely a few years. It is therefore reasonable once again to assume that the event in question must have transpired at least some twenty years before the deputation came to Nehemiah, i. e. before 465 B. C., the year of the accession of Artaxerxes I to the Persian throne.

This consideration, in turn, reduces the potential duration of the period in which this national catastrophe must have happened to 490-465 B. C., a scant twenty-five years. Furthermore, this period coincides almost exactly with the reign of Xerxes over the Persian Empire. And inasmuch as Ps. 83.9, as we have interpreted the passage,<sup>97</sup> records that Persia played a rôle, secondary though it may have been, in the campaign of the federated nations against Judah and Jerusalem, the thought begins to suggest itself that this unhappy event may have transpired during the reign of Xerxes, 485-465 B. C. For the present this is a working hypothesis, which must be carefully tested.

## VII

### THE TESTIMONY OF JOEL 4.2b $\beta$ -8, 19-20

Joel 4.2b $\beta$ -8, 19-20, a passage which unmistakably reflects a specific, historic event in Jewish history, is set in a characteristic, eschatological description of the Day of Yahweh, and particularly of Yahweh's judgment upon the nations which had dealt so grievously with the little, helpless Jewish people. Very appropriately, this divine judgment is to be executed at Jerusalem itself, in the Valley of Jehosaphat, just beneath the Temple Mount. As these nations had done to Jerusalem and the Jewish people, so, under divine dispensation, would now be done to them. This is the prevailing theme of the chapter as a whole.<sup>98</sup>

<sup>97</sup> Above, pp. 131-134.

<sup>98</sup> The same theme, the divine judgment of the nations, executed likewise at Jerusalem, and impliedly in the Valley of Jehosaphat, between the Temple Mount and the Mount of Olives, is the theme of Zech. 14. There the nations are not mentioned by name, nor is there any immediate indication that their divinely imposed sentence is in compensation for what they had done to Jerusalem and the Jewish people. Yet the fact that punishment is visited upon them at Jerusalem suggests that this was the case. At any rate there is every reason to correlate the eschatological picture in Zech 14 with that in Joel 4. These eschatological pictures, neither of them

However, within the chapter vv. 2b-8 record, in considerable and illuminating detail, something of what had once befallen Judah, and this is, in turn, supplemented slightly by vv. 19-20. Although it is not stated specifically here, the obvious implication is that Judah had been overrun and conquered by a coalition of nations. Among these Tyre and Sidon, the Philistines and Edom are mentioned by name.<sup>99</sup> Impliedly too Jerusalem had been captured and laid in ruins. The Temple had been despoiled and all its treasure had been carried away. A large section of the Jewish people had been captured and sold as slaves at prices so fantastically low that the captors had readily given a captive boy as a harlot's price and a girl for wine to quickly satisfy their imperious appetites. The nations participating in this slave commerce in first degree were, as was to be expected, the Tyrians, Sidonians and Philistines, three of the seven nations denounced in Ezek. 25.15-17; 26.2-6; 28.20-23 for their bitter hostility to Judah. The purchasers of these Jewish slaves were the Greeks, presumably the Ionians of Asia Minor.

The effect of this traffic was to scatter the captive Jews, and that too as individuals rather than in a single body or in groups, as in the Babylonian Exile, far from their native land, even in the lands far across the Mediterranean. This, and not at all the experience of 586 B. C.,<sup>100</sup> must have constituted the great dispersion of the Jewish

presumably of too early date, evidence convincingly the deep and persistent impression which the tragic episode, which we are endeavoring to recover, made upon the thought and the theological speculation of the Jewish people during the middle and late post-exilic periods.

<sup>99</sup> Egypt too is mentioned by name in v. 19 as one of the nations destined for desolation by God. The full import of this sentence is not clear, for it is altogether unlikely that Egypt was a member of the anti-Jewish coalition with which we are dealing in this study. However, it is not at all impossible that the divine anger against Egypt, recorded here, was motivated by altogether different historic circumstances, such as, for example, the attack of the native Egyptian insurrectionists upon the Jewish community of Syene and the destruction of its temple in 411 B. C., recorded in the Assouan papyri (Cowley, *Aramaic Papyri of the Fifth Century B. C.*, nos. 30-34, pp. 108-129). If this assumption be correct, it would follow that Joel 4 must be later than 411 B. C., and perhaps even quite a bit later, for its author seems to be looking backward over a rather long, historic perspective, one which may easily have carried him back, even beyond 411 B. C., to the period, 490-465 B. C. Moreover, he seems to have possessed quite an accurate knowledge of the actual details of the great tragedy which befell the Jewish people at some particular moment during that period.

<sup>100</sup> The precise number of exiles carried from Jerusalem to Babylonia in the three deportations of 597, 586 and 581 B. C. is recorded in Jer. 52.28-30 as 4600 all told. If we assume, as is probably justified, that this represents only the male captives



people. Through this sale as slaves the Jewish people came to be dispersed in vast numbers among the nations of the earth, and especially among the "Isles," i. e. throughout the Mediterranean world. And it was for the return from this dispersion and rehabilitation in their native land of Judah that the little remnant of the Jewish people, still resident in Palestine, longed so ardently and prayed so fervently, as is recorded in many stirring Biblical writings of this period. We can now understand, too, clearly and precisely just what "the remnant left from the captivity," to which Neh. 1.2-3 makes reference, actually was. It was a tiny remnant of the once politically hopeful and ambitious Jewish people, now poor and pitiful indeed, precisely as these vv. depict it. And the "captivity" in question must have been, not at all the Babylonian Exile nor yet the deportation of a body of Jews to Hyrcania in 344 B. C., but this almost world-wide dispersion of individual Jewish captives, sold as slaves in the slave-

and that these were accompanied by a proportionate number of women and children, we may infer that the total number of Jewish captives carried off to Babylonian exile approximated 20,000. This number is not only reasonable, but also it accords well with what seems to have been the customary procedure of Assyrian, and presumably also of Babylonian, kings in dealing with conquered cities and countries, as is evidenced by the Assyrian record that the total number of captives whom Sargon carried away after the fall of Samaria in 722 B. C. was only some 27,000.

This procedure is readily understood. Both Assyrian and Babylonian rulers were intent upon building up a world-empire, every province of which would be economically self-supporting and contributive. Therefore they could not afford to depopulate any country too greatly. Correspondingly they found themselves compelled to replace transported sections of the population of any conquered country with new settlers from relatively remote provinces of their vast empires. Such was the procedure of both Sargon and Esarhaddon with Samaria. The very fact that Nebuchadnezzar apparently did not feel constrained to such resettlement procedure suggests in itself that the number of Jewish captives whom he carried away was relatively small, quite in accord with the number recorded in Jer. 52.28-30.

Moreover, these Babylonian Jewish exiles were not doomed to slavery and were not exposed for sale in the slave-markets of various nations. Rather, as ample evidence indicates, Jer. 29.5-7 for example, they were transported to Babylonia and resettled there in conformity with long-established Assyrian and Babylonian practice. In their new home they adjusted themselves quickly to their environment and settled down to independent economic and cultural life. In a relatively short time, so it seems, they came to feel completely at home in Babylonia. This condition was altogether different than the fate of the Jewish captives pictured in Joel 4.2b-8 and Ps. 44.13. This proves conclusively that these latter passages deal with a different, later, and far more tragic experience for the Jewish people than the Babylonian Exile.

It is equally self-evident that Joel 4.2b-8 and Ps. 44.13 can not refer to the deportation of a body of Jewish captives by Artaxerxes Ochus in 344 B. C., for, in much the same manner as in 586 B. C., they too were carried away and resettled as a group in far-off Hyrcania.

markets, famous, or perhaps infamous, in ancient days, of Tyre, Sidon and Gaza.

Brief though it is, Joel 4.2b-8, supplemented by vv. 19-20, adds further and significant details to the picture of the national catastrophe of the Jewish people which we are endeavoring to recreate. That it was the same tragedy as that which we have tentatively reconstructed from the Biblical passages already analyzed, can scarcely be doubted. As has already been suggested, two such tragic experiences in the history of a single nation or people within too brief a period are inconceivable. And this inference is justified all the more, since here, just as in all the Biblical passages already considered, Judah has been the victim of the attack, not of a single, mighty, enemy nation, as was the case in 586 B. C. and again in 344 B. C., but rather of a coalition of small, neighboring states, four of whom, mentioned by name in Joel 4, are identical with four of the little nations recorded elsewhere as parties to this anti-Jewish coalition. And the sale of the captive Jews into slavery here, at an absurdly low price, agrees completely with the briefer and more summary statement of Ps. 44.13.<sup>101</sup> That Joel 4.2b-8 must be correlated with the passages already considered, and that the information which it imparts supplements not a little the picture of the catastrophe inflicted upon the Jewish people already outlined is certain. In particular Joel 4 adds three significant details to this picture, viz. the selling of what must have been quite a large section of the Jewish community of Palestine into slavery, the rôle of the Tyrians, Sidonians and Philistines in this transaction, and that, as one result thereof, many of these Jewish captives were carried away to foreign lands, even far across the sea.

## VIII

### NEH. 5.8 AND ISA. 60.4, 8-22

The conclusion just drawn from Joel 4.2b-8, 18 f. finds definite confirmation in two other Biblical passages. Neh. 5.8 tells that already by 444 B. C. or, at the most, but a decade thereafter, the little, enfeebled Jewish community of Judaea, "the remnant which was left from the captivity," had instituted the practice of ransoming their fellow-Jews who had been sold, as slaves of course, to the nations, i. e. the peoples of foreign lands.

<sup>101</sup> Likewise Isa. 52.3, 5. Note also that in v. 2 Jerusalem is twice called *šēbīyyah*, "captive," i. e. "one carried away into captivity (*šēbī*)"; cf. also Isa. 50.1.

Isa. 60.4, 8–22<sup>102</sup> envisages the return, with divine help and protection, from distant places across the seas,<sup>103</sup> i. e. of course from the lands of the Mediterranean world, of Jews who had been grievously oppressed by foreign conquerors (v. 14), Jews who, impliedly therefore, were captives, and in all likelihood slaves, in these lands, lands predominantly of Greek or, as Joel 4.6 calls it, Ionian, population and culture. Moreover, during the period of captivity and enslavement of these Jews, and certainly as a circumstance attendant thereupon and resulting from the same cause, conquest by pitiless and malicious foreign enemies, Jerusalem had been a city desolate and forsaken (v. 15), with its walls in ruins (vv. 10a<sup>104</sup> and 11). The prophetic author of this address confidently predicts, in conformity with Yahweh's loving purpose for His suffering people, at last becoming manifest, the return of these unhappy captives, the complete reversal of their fortunes, the rebuilding of the walls of Jerusalem (v. 18b), and the restoration of the city's power, prosperity and glory.

All this, together with the evidence already adduced, constitutes a formidable body of incontestible evidence that this Jewish national catastrophe, one of the immediate effects of which was the destruction of Jerusalem and the razing of its walls, and another was the dispersion and sale as slaves of a vast number of Jewish captives into distant lands, lands of the Graeco-Mediterranean world, must have taken place some time before 445 B. C., but in all likelihood not too long before. This accords completely with our previous inference that this catastrophe could hardly have befallen the Jewish community of Palestine during the reigns of Cyrus and Cambyses, nor yet even during the reign of Darius I. This suggests, and that too quite cogently, that it transpired most probably during the reign of Xerxes.

One further fact of more than passing significance. Isa. 60.13<sup>105</sup> seems to imply that at the time when this address was delivered, whether in spoken or in written form, the Temple, destroyed com-

<sup>102</sup> V. 4 has been displaced from its logical and undoubtedly original position, between vv. 8 and 9, as the result of the fusion of this address with the altogether different and somewhat earlier address in vv. 1–3, 5–7 of the same chapter; cf. Morgenstern, "Two Prophecies from 520–516 B. C.," *HUCA* XXII (1949), 383–400.

<sup>103</sup> Cf. v. 9. For כָּלִי כִילִי read כָּלִי כִילִי, "vessels, ships" (for כִילִי with this connotation cf. Isa. 18.2). The fact that these captives must be brought back to Judaea in ships indicates plainly that the lands of the captivity were across the sea, i. e. in various parts of the Mediterranean world.

<sup>104</sup> V. 10b disturbs the continuity of thought from v. 10a to v. 11 and has all the earmarks of a supplementary gloss.

<sup>105</sup> For מְקוֹם מִקְדָּשִׁי read מְקוֹם קְדָשִׁי. The 'מ' thus eliminated was manifestly the result of dittography.

pletely or almost completely, as overwhelming evidence has established, as a third effect of this many-sided national catastrophe, was standing once again, that, in other words, it had already been rebuilt. This reconstruction of the Temple and resumption of worship therein, the initial manifestation of Yahweh's restored favor to his sorely stricken people, had undoubtedly contributed much to the alleviation of their despair and had quite naturally encouraged hopes of the immanent expansion of this favor to them. And one of the most ardently desired, concrete expressions of restored divine favor, at least in the thought of this nationalistically minded, prophetic writer, would be the rebuilding of the walls of Jerusalem, the repopulation of the city, and its elevation and the elevation of the Jewish people to a position of power, grandeur and world-wide authority, to which the people, or at least the nationalist party among them, had, as we shall learn, eagerly aspired previous to the great catastrophe, but which had as yet never been achieved. Certainly this prophecy confidently envisages the rebuilding of the walls of Jerusalem, and that too in the very near future. And apparently the Temple, the third Temple, as we must now recognize it, had already been rebuilt, though perhaps in rather modest form. Not at all improbably it was the fairly recent completion and rededication of this third Temple which raised such high and confident hopes in the mind of this prophetic, nationalistically minded author and prompted him to formulate and publicize them in this address. And all this could not have preceded by many years the coming of the deputation from Jerusalem to Nehemiah in the last days of 445 B. C., his going up to Jerusalem very soon thereafter and his completion of the rebuilding of its walls, even as this prophetic author had confidently predicted.

Gradually the significant details of the historic event which we are endeavoring to recover are not only becoming ever clearer but are also beginning to become integrated.

## IX

### THE HISTORIC SETTING OF THE CATASTROPHE

On the basis of the evidence already formulated we have tentatively set this grievous catastrophe of the Jewish people in the period 490-465 B. C., and have ventured to suggest a possible connection with the reign of Xerxes over Persia, 485-465 B. C. Can this hypothesis be confirmed definitively; and, if so, can the date and occasion of the catastrophe be fixed even more precisely?

Ezra 4.7-23, and particularly vv. 12-22, quotes a document, written in Aramaic, the far-reaching historic import of which has long been recognized by Biblical scholars.<sup>105a</sup> This document is in the form of a letter or report sent to Artaxerxes, the Persian king, the son of Xerxes, by high Persian officials of the province of Samaria, immediately adjacent to Judaea, concerning the procedure of a body of Jews who had, seemingly fairly recently, come up to Jerusalem from Persia, and even from immediate proximity to the Persian king. They are rebuilding Jerusalem, at the moment manifestly in a ruinous state. These Persian officials, obviously unfriendly to and suspicious of the Jewish people, represent Jerusalem to the king as a hostile and rebellious city. They report that these recently returned Jews are restoring the walls of the city and repairing their foundations. They warn the king that if this work is not halted, in other words if the rebuilding and fortification of the city should be completed, he could expect only one outcome therefrom, that taxes and tribute would be withheld, that, speaking plainly, the Jewish people would certainly rebel and endeavor to throw off the Persian yoke and regain political independence. They advise the king to consult the archives of his royal fathers, for therein, they assure him, he will find irrefutable evidence that from olden times Jerusalem had been a seditious city, which had previously wrought harm to both kings and provinces, impliedly the kings and provinces of the Persian Empire, that actual warfare had been waged in the city, and that it was because of this that the city had been laid in ruins, even as it is at the present moment. They suggest further that, should the city now be rebuilt and its fortifications restored, the outcome of the Jewish rebellion, sure to ensue promptly thereafter, might well be that the entire Judean province would be lost to Persia. Therefore, they hint, it would be prudent for the king to act firmly and without delay.

Inasmuch as, at the time when this report was sent to the king, the walls of Jerusalem were still in a ruinous state, it follows that this incident must have preceded Nehemiah's successful rebuilding program. From this it follows, in turn, that the Artaxerxes in question can have been only Artaxerxes I, 465-425 B. C., the patron of Nehemiah, and also that this attempt to rebuild the walls of Jerusalem must have preceded Nehemiah's successful carrying out of the same

<sup>105a</sup> For an objective and penetrating investigation and evaluation of the historic validity and import of this document, and with it of Ezra 4.6 also, together with a truly remarkable and invaluable survey of the many, widely ranging interpretations of and hypotheses concerning it, previously propounded by highly regarded Biblical scholars, cf. the two recent publications of Prof. H. H. Rowley cited in note 4.



project, and that too in all likelihood by not too long a period, very probably therefore during the reign of this same king. It follows also that the conquest of Jerusalem, which had brought about the destruction of the city and the razing of its walls, must have preceded Artaxerxes' ascension of the Persian throne, must in fact have taken place even before his birth or at least while he was still too young to have taken note of, and now to remember, the incident. Only for this reason were these Persian officials justified in assuming that he would probably have little, if any, knowledge of the event and of the circumstances leading up to it; for had it all happened after his throne-ascension, he would certainly have been sufficiently informed about it, and there would have been no point whatever in their reminding him of the previous history of the city and their suggestion of the danger inherent in the situation which they are reporting.

That Artaxerxes followed the counsel given him by these Persian provincial officials his reply to them indicates clearly. An examination of the royal archives did indeed disclose that Jerusalem had long been a city which rebelled against kings, impliedly of course against the kings of Persia. Insurrection had been wrought within it. Powerful kings had exercised dominion within the city, and their disturbing and disorganizing influence had extended through the entire province of Transpotamia and had impliedly troubled the Persian administration of the provinces not a little. Therefore, so the king now decreed, just as these loyal and foresighted officials had counselled, let the rebuilding of the walls be halted, at least for the present; and let them be very circumspect in carrying out this charge. V. 23 tells that the king's command was rigidly enforced.<sup>106</sup>

The implications of the two letters, that to Artaxerxes and his reply thereto, are clear and significant. Inasmuch as it is hardly likely that Artaxerxes would have had deposited in his royal archives at

<sup>106</sup> Ezra 4.24 together with Ezra 5-6, the only theme of which is the rebuilding of the Temple, is certainly the immediate continuation of 4.5. In fact the account of the rebuilding of the Temple begins with 3.8 and continues through 4.5 and after that through 4.24-6.18. Obviously then 4.6, with which we shall deal shortly, and 4.7-23, the theme of which is the restoration of the city of Jerusalem and the rebuilding of its walls, are an intrusion here, probably displaced in some altogether unimaginable way from their original and proper position. In all probability this was immediately before Neh. 1.1. Certainly from a chronological standpoint this would seem to have been their proper position, for standing just there, the course of events recounted in this document would account clearly and adequately for the report of the continuing sad state of Jerusalem which the deputation from that city brought to Nehemiah in the final month of 445 B. C. and of his distressed reaction to it.

Ecbatana<sup>107</sup> the official records of the neo-Babylonian kings, and still less those of their Assyrian predecessors, it follows that the archives in which search was to be made must have been those of the Persian kings. And since there is neither here nor elsewhere any suggestion whatever, and therefore absolutely no reason to believe, that during the reigns of either Cyrus or Cambyses the Jews of Jerusalem had contemplated rebellion and the throwing off of the Persian yoke, it follows that the word *'abatahatah*, "thy fathers," in v. 15 must be understood literally, and that accordingly it refers specifically to Darius I and Xerxes, who alone, if the word be interpreted literally, could be regarded as the "fathers" of Artaxerxes.<sup>108</sup> Accordingly this search of the archives of the king seems to have disclosed, what was obviously well known to the authors of the letter to him, that in the reigns of both Darius I and Xerxes there had been attempts by the population of Jerusalem to regain political independence and in each instance to set upon the throne a king from their own midst. In each case there had been rebellion and warfare in Jerusalem. Manifestly in neither instance had the rebellion succeeded, for at the time of the writing of this letter Jerusalem and Judah were still under Persian dominion. Unquestionably the rebellion in the reign of Darius I was that of Zerubabel, which ended, as we know, in total failure. But what could the rebellion in the reign of Xerxes have been?

These two documents reveal even more than this. As has been said, both rebellions, it is plain, had for their purpose the regaining of political independence by the Jewish people and the restoration of a native Jewish king to the throne. The two letters imply that in each instance the rebellion progressed to the point that a Jewish king was actually ruling in Jerusalem, presumably merely for the very brief duration of each rebellion, that he was recognized as king by the Jewish community in Palestine, or at least by a considerable section thereof, and that he asserted, and even in a way endeavored to enforce, his dominion over, and to collect tribute and taxes from, the little, neighboring states and peoples which together constituted the Persian province of Transpotamia.

It may be that there was some slight justification to the charge that Zerubabel had attempted to do all this, especially as his program

<sup>107</sup> According to Ezra 6.2 the royal archives of Darius I and certainly also of his immediate successors were in Ecbatana. It may well be, as the confused text of V. 1b, probably a gloss, seems to imply, that the archives of Cyrus, and if so, then those of Cambyses also, were in Babylon. But if so, this would be further evidence that by *'abatahatah* only Darius I and Xerxes can be meant.

<sup>108</sup> So also Sellin, *Serubbabel*, 56.

was interpreted by Persian officials and as the incident was therefore recorded in the Persian royal chronicles. But it is absolutely certain that the destruction of Jerusalem and the razing of its walls, the historic occasion for which we are endeavoring to determine, could not have been the consequence of, nor have followed too soon after, Zerubabel's rebellion. The following considerations will establish this fact with certainty and will likewise outline the historic circumstances which must have obtained in Jerusalem prior to its eventual destruction.

As Ezra 6.24 records, the rebuilding of the Temple, instigated by the prophets Haggai and Zechariah and begun by Zerubabel, as 5.1 ff. states, and as is fully corroborated by the extant utterances of these two prophets, was interrupted, because of the rebellion of Zerubabel, for only a brief period and was resumed still in the second year of Darius I, 519 B. C.<sup>109</sup> The work of rebuilding continued until 516 B. C.<sup>110</sup>

<sup>109</sup> Hag. 1.14 f. states that the actual work of rebuilding the Temple commenced upon VI/24 of the second year of Darius I, i. e. Sept. 22, 520 B. C. (cf. Parker and Dubberstein, *Babylonian Chronology* 626 B. C.-A. D. 45, and my review thereof in *JNES* III [1943], 125-130), seemingly while Zerubabel was still functioning formally as *pehah*, or Persian governor, of Jerusalem. In fact Hag. 2.2 (cf. Ezra 6.7) records that on VII/21, i. e. Oct. 18, 520 B. C., Zerubabel was still holding this office, and that therefore even at this date his ill-fated rebellion had not yet been inaugurated. No doubt Zerubabel undertook the rebuilding of the Temple with the full endorsement of the Persian government. His rebellion was certainly then the cause of the halting of the building operations. The rebellion was apparently crushed completely by January 1, 519 B. C. or almost immediately thereafter. Haggai's final utterance in support of Zerubabel, 2.20-23, was spoken upon IX/24 of Darius I's second year, i. e. Dec. 19, 520 B. C. Zechariah's second dated address, 1.7 ff., which implies clearly that the rebellion was completely crushed and that the restoration of Jerusalem was definitely envisaged by the prophet, was delivered on XI/24, i. e. February 15, 519 B. C., when Darius I's second year had still some five weeks to run. Ezra 4.24 then records quite correctly that already before Darius I's second year had ended, i. e. before March 23, 519 B. C., the work of rebuilding the Temple had been resumed. Manifestly this work had been interrupted for not more than five months, and probably for quite a bit less than that. Certainly both the interruption of the building operations and their resumption were all within the second year of Darius I.

<sup>110</sup> According to Ezra 6.15 upon Adar 3rd, but according to 1 Esdras 7.5, and undoubtedly more correctly, upon Adar 23rd (apparently in Ezra 6.15 one word, וְעֶשְׂרִין, has fallen out from after הלחה; cf. Morgenstern, "Supplementary Studies in the Calendars of Ancient Israel," *HUCA* X [1935], 82, note 133), of the sixth year of Darius I, i. e. March-April, 515 B. C. This dating implies clearly the dedication of the second Temple upon I/1, just eight days after its completion; and this, in turn, implies that I/1 must have been regarded by the author of this passage, whoever he may have been, as the New Year's Day; for the New Year's Day was regularly employed by the Semitic peoples of antiquity for the dedication of sanctuaries. This dating accords of course with the P2 dating of the dedication of the tabernacles in

The Temple was then dedicated formally upon the then current New Year's Day, VII/10, of 516 B. C. Manifestly the Temple could have been rebuilt completely and formally dedicated in this manner only with the permission, and undoubtedly also with the generous cooperation, of the Persian government. Its motives in so acting are obvious. What Haggai and Zechariah desired above all else, so their successive addresses indicate clearly, and what they therefore represented as the divinely decreed, primary task of Zerubabel, when, with divine aid, his rebellion should have succeeded, was not at all the exercise of political dominion, but rather the immediate rebuilding of the Temple and restoration of its cult. Theirs was in first degree a religious and, especially on the part of Haggai, so it seems, even a priestly, rather than a specifically nationalistic and political, motivation. Responding favorably to their appeal, Zerubabel made a beginning of this task shortly before the rebellion, of which he was or became the leader, had gotten into full swing, and while he was still functioning primarily as the Persian *pehah* of Jerusalem. This he had done with the sanction of the Persian government and likewise with its material support.

It is not at all surprising therefore that very soon after the rebellion

the wilderness upon I/1 (Ex. 40.2; cf. Morgenstern, "The Three Calendars of Ancient Israel," *HUCA*, I [1924], 49-58). This dating of the dedication of the second Temple is surprising indeed, for I/1 was never in all Jewish history (except perhaps for the brief period, 621-608 B. C., when the Deuteronomic calendar was in official use [cf. Morgenstern, "The Chanukkah Festival and the Calendar of Ancient Israel," *HUCA* XXI [1948], 426-443, 488-490.]), the recognized Jewish New Year's Day. However, it is not at all improbable that this record here and in Ex. 40.2 may reflect Jewish sectarian practice of the fourth century B. C. With the formulation and official adoption of the Priestly Code and its lunar calendar in the last quarter of the fifth century B. C. (cf. "Supplementary Studies in the Calendars of Ancient Israel," 72, 143) VII/1 became the official New Year's Day. Prior to this and commencing with the dedication of Solomon's Temple some five and one half centuries earlier VII/10, the day of the autumnal equinox, had been the official New Year's Day in Israel, and was observed as such still at the time of Ezra and Nehemiah ("The Three Calendars of Ancient Israel," 22-53). Moreover, Zech. 3-5 distinctly envisages the dedication of the second Temple and the installation of Joshua therein as the first "anointed priest" upon the equinoctial New Year's Day (Morgenstern, "A Chapter in the History of the High-Priesthood," *AJSL* LV [1938], 188 f., 369 f.; "The Mythological Background of Psalm 82," *HUCA* XIV [1939], 51 f., 56). Accordingly there can not be the slightest doubt that the second Temple was dedicated actually upon the New Year's Day of the calendar still official in the Jewish community of Palestine in the early post-Exilic period, VII/10, the day of the autumnal equinox. This means, in turn, that the second Temple must have been dedicated, not in March-April of 515 B. C., as Ezra 6.15+1 Esdras 7.5 states, but rather upon the day of the autumnal equinox, i. e. in September, 516 B. C. Both of these dates fell of course within the sixth year of Darius I.

had foundered the Persian government should have permitted, and even encouraged with a renewal of material assistance, the resumption of the rebuilding of the Temple.<sup>111</sup> Various considerations, of both political and religious import, made this procedure advisable. After the collapse of the rebellion the nationalist party, which had inaugurated and passionately supported the rebellion and had, there is some reason for believing, even drawn Zerubabel into its leadership rather late and somewhat against his will, quite naturally found it urgently advisable to go underground. In its stead the rival party, which championed a program of religious liberalism with a distinctly universalistic outlook, much in the spirit of Deutero-Isaiah and as they interpreted the role of Israel as the servant of Yahweh, which that supreme prophet had proclaimed for it, had come into control of the affairs of the little Jewish community of Palestine. It repudiated formally and sincerely both the theory and the program of a restored Jewish political nation under a Davidic king, and in its stead advocated the organization of the entire Jewish people, both within Palestine and without, as a distinctively religious community, the *kēhal Yahweh*, "the congregation of Yahweh." Of this Jewish religious community Yahweh would be the eternal and supreme ruler, its true and only King, even as Deutero-Isaiah had proclaimed Him;<sup>111a</sup> and His vicegerent on earth, in Jerusalem, would be the chief-priest of the Jerusalem Temple, who would now be inducted into his high office by the rite of anointing, the rite which had formerly been reserved for the king alone. This procedure, it is plain, implied for the Jewish people positive and complete repudiation of human kingship and of all nationalistic ambitions and program. Accordingly the formal title of this new head of the Jewish people would be henceforth *hakōhen hamašīah*, "the Anointed Priest."<sup>112</sup>

Moreover, into this "congregation of Yahweh" non-Jews, foreigners, would be admitted freely through formal proselytism and would be permitted to participate in all the ceremonial functions of Judaism practiced in the Temple unrestrictedly and upon an equal footing with all native Jews.<sup>113</sup> Thus would the program of the Jewish people, formulated by Deutero-Isaiah but a short quarter of a century earlier, the fulfillment of its divinely appointed destiny as Yahweh's servant, the agent of His purposed salvation of all peoples and all mankind,

<sup>111</sup> Ezra 6.6 ff.

<sup>111a</sup> Isa. 41.21; 43.15; 44.6.

<sup>112</sup> "A Chapter in the History of the High-Priesthood," 183 ff.

<sup>113</sup> Morgenstern, "Two Prophecies from 520-516 B. C.," *HUCA* XXII (1949), 365-431.



begin to find some measure of realistic execution. Such a program would, quite naturally, tend to obliterate the character of the Jewish people as a nationalistic, political entity, and with this every impulse to rebellion from Persian dominion would be stilled. For this program, it is readily apparent, the Temple in Jerusalem was indispensable, even as Deutero-Isaiah had himself realized clearly.<sup>113a</sup> Small wonder then that the Persian government should, following closely upon the termination of the Zerubabel rebellion, have given ready and hearty support to this program and have sanctioned anew the rebuilding of the Temple, and even granted generous material assistance to the enterprise. Accordingly within some three and a half years after the collapse of this rebellion the second Temple was completed and dedicated. Promptly thereafter what seems to have been a fairly extensive proselyte movement to Judaism set in and continued for quite a number of years, and this of course with the approval and cooperation of the priesthood of this second Temple, the Levitical priests.<sup>114</sup>

Certainly the rebellion of Zerubabel was not followed by a destruction of Jerusalem and its walls. On the one hand, Jerusalem could not as yet have been rebuilt extensively and its walls restored, following their destruction by the Babylonians in 586 B. C., sixty-six years earlier. And on the other hand, there is good reason for believing that in the period following 516 B. C., during which it was once again the sacred city, with the Temple operating within it anew as of old, with its priesthood dwelling within it, and with both Jewish pilgrims and proselytes from various lands thronging to it in goodly number, Jerusalem grew again into a city of stately beauty, with palaces, walls and embattlements.<sup>115</sup> Therefore, when Ezra 4.15 says specifically that because of the rebellion which had been wrought within it and its attempt to regain political independence and set its own native king upon the throne Jerusalem had been laid in ruins, it can not possibly have in mind the rebellion of Zerubabel at the beginning of the reign of Darius I and its after-effects. It can be contemplating only a destruction of Jerusalem attendant upon a second attempt at rebellion, one later than that of Zerubabel, which certainly did not come too soon thereafter, and which therefore may well have occurred during the reign of Xerxes, precisely as the reference to Artaxerxes' "fathers" suggests.

Complete and irrefutable confirmation of this inference is fur-

<sup>113a</sup> Isa. 44.28b.

<sup>114</sup> Cf. Ezek. 44.6-14.

<sup>115</sup> Cf. above, pp. 2 f.

nished by Neh. 1.1-4. Obviously when his brother, Hanani, and his associates, the deputation from Jerusalem, came to Nehemiah in December, 445 B. C. and he inquired of them as to the present state of Jerusalem, he expected a report the very antithesis of the doleful statement which was given to him. Quite plainly he must have expected to hear that the city had been restored in considerable measure, and particularly that the walls had been rebuilt and the gates reset. The report of the deputation, that this had not been accomplished at all, but that the city and its walls and gates were still in ruins, and that "the remnant which was left from the captivity," which had remained resident amid the ruins of Jerusalem or, and more probably, in the country districts adjacent to the city, was still in sorry plight, shocked and grieved him, first to despair and then, in due time, to energetic and decisive action.

Moreover, we comprehend now the full import of the second term used by the delegation from Jerusalem to describe to Nehemiah the present unfortunate situation of the little Jewish community of Judaea. Not only were they, from a social and economic standpoint in great distress, but also, as the result of this unsuccessful attempt to rebuild the walls of Jerusalem, they were *b<sup>e</sup>herpah*, "in bad repute, in disgrace, in a position of contumely and insult." Quite plainly, this term describes the present attitude of the Persian government towards them. It regards them with suspicion, as a people intent upon rebellion, and therefore to be governed with restraint and severity. Certainly the carrying out of this policy by the Persian provincial officials must have added much to the already very unhappy situation of the little Jewish community.

Empowered by his royal master, Artaxerxes, to at least rebuild the city and make repairs in its walls,<sup>115a</sup> and obviously appointed governor of the province of Judah,<sup>116</sup> Nehemiah proceeded to Jerusalem. His very first task was to resume the rebuilding of the walls. This task he carried on with extreme expedition, undoubtedly motivated by the determination to have the work fully completed before the Persian officials in Samaria, Sanballat<sup>117</sup> and his associates, might report to the king that he had, presumably without royal permission, resumed the project which had been halted not too long previously by Artaxerxes' decree. Sooner or later of course such a report must have been

<sup>115a</sup> Neh. 2.4-8.

<sup>116</sup> Neh. 5.14-18.

<sup>117</sup> That Sanballat functioned as *pehah*, i. e. provincial governor, of Samaria is attested by the Aramaic papyri from Elephantine (cf. Cowley, *Aramaic Papyri of the Fifth Century B. C.*, #30, 1.29).

sent to the king. And while there can be little doubt that Nehemiah had greatly exceeded the royal authorization, granted to him at his request, to rebuild<sup>117a</sup> the gates, there can be no question whatsoever that this report of the provincial officials, resentful of Nehemiah's appointment as *pehah* of Judaea and of the resultant curtailment of their own authority, and also, we may be sure, genuinely suspicious of Nehemiah's true purpose in rebuilding the walls, magnified the facts in the case and their seeming, rebellious import, far beyond reality. In all likelihood it was this very report which in due time brought about Nehemiah's recall to the Persian court, to account to the king for his unauthorized and seemingly rebellious action,<sup>117b</sup> after what appears to have been a relatively brief tenure of office. That the report must have charged that Nehemiah's purpose in rebuilding the walls was to instigate rebellion, throw off the Persian yoke, regain political independence for Judah, and make himself king, is amply evidenced by Neh. 2.19; 6.6-7. Obviously this was only a repetition of the accusation against the Jews and their leader which, as we have learned, had been made once previously in the reign of Artaxerxes I by Sanballat's predecessor in the office of governor of Samaria, and which, as we shall soon establish, had been made at least once before that, during the reign of Xerxes. Apparently Nehemiah managed in time to placate Artaxerxes and to dispel his suspicions that the rebuilding of the walls of Jerusalem meant an eventual, third attempt at rebellion and regaining political independence for the Jewish people, for in time he was restored to his high office and returned to Jerusalem. Apparently he then retained this office until the death of his royal master in 425 B. C.

Nehemiah's second task, during his first period as governor of Judaea was to repopulate the devastated metropolis by drafting

<sup>117a</sup> *L'ekarôt*.

<sup>117b</sup> Neh. 2.3 tells that when Artaxerxes inquired of Nehemiah the cause of his deep grief he replied that it was because the city of his ancestors was in ruins and its gates were burned. But even here there is no specific mention of its walls, although it may perhaps be assumed that this is implicit in his reference to the gates. However, according to v. 5 all that Nehemiah requested of the king, and therefore all that was formally granted to him, was permission to rebuild the city. Accordingly, despite the vague reference in v. 8 to the walls of the city, the extreme speed with which, immediately after his arrival at Jerusalem, Nehemiah proceeded with the rebuilding of the walls implies beyond all question that he knew that he had no specific authorization for this undertaking and that he anticipated that the king would command the prompt and complete stoppage of this work so soon as it would be reported to him.

people from the outlying country districts to settle in the city.<sup>118</sup> These procedures make vividly clear the extent to which Jerusalem had been devastated and laid in ruins during the reign of Artaxerxes I's predecessor, Xerxes.

The basis of Nehemiah's shock and bitter disappointment, caused by the unhappy and altogether negative report of the deputation from Jerusalem, is now readily apparent. Unquestionably he knew of this expedition of a body of Jews from the Persian capital to Jerusalem earlier in the reign of Artaxerxes and of its secret purpose to restore the city and rebuild the walls. Certainly this purpose could not have been widely known and publicized, and least of all to the Persian government. On the other hand, this expedition could hardly have come to Jerusalem without authorization from the Persian king and his government. Accordingly some other motivation for the expedition, and one both plausible and concrete and probably even honestly intentioned by its Jewish proponents, must have been announced publicly, a motivation which commended itself unreservedly to and found ready and complete endorsement by Artaxerxes and his counsellors. To this announced and formally approved purpose the plan to rebuild the city walls must have been, initially at least, subordinate, to be undertaken only after the primary and authorized task was well under way or was perhaps even completed. For the time being this second purpose had to remain a carefully guarded secret, known only to the actual leaders of the expedition and not to be disclosed until the time was ripe to initiate it; for had the Persian government known of or even suspected such a purpose in the minds of the members of the expedition, it would certainly never have given sanction thereto. What the primary and officially authorized task of this expedition may have been we shall endeavor to determine in due time.

Apparently by 445 B. C. or, more probably, a year or two earlier, this primary commission of this expedition, authorized and perhaps even assisted materially by the Persian government, had been completed or at least had progressed sufficiently to warrant the launching of the second, the secret, purpose of the expedition, the restoration of Jerusalem and the rebuilding of its walls. Certainly Nehemiah was fully aware of this expedition and its purposes, both its primary, officially approved purpose and the second, the secret one. Not at all improbably, using his unquestionably great personal influence with the king, he may even have sponsored this expedition in one way or another. Certainly he had hoped eagerly for its success in all its various

<sup>118</sup> Neh. 11.1 ff.

tasks and, hearing at first nothing to the contrary, had assumed that it was prospering according to expectations. Consequently when word finally came to him that the mission had failed, at least in its second, secret task, after barely getting this under way, his shock and grief were in corresponding measure.

All this cumulation of evidence, growing out of this reconstruction of the probable course of events during the reign of Artaxerxes I, on the basis of data recorded in the Bible, establishes with a large measure of certainty that the Jewish rebellion and attempt to regain political independence and to set a native king upon the throne, which resulted in, among other circumstances, the burning of the second Temple, the laying of Jerusalem in ruins and the destruction of its walls, must have taken place before Artaxerxes I ascended the Persian throne, i. e. before 465 B. C., in all likelihood therefore, just as the letter of the Persian officials in Samaria to Artaxerxes suggests, at some time during the reign of Xerxes, Artaxerxes I's father. Is it possible to fix the date and the occasion of this rebellion more precisely?

Ezra 4.6 sets forth a peculiar record, so incomplete and vague that its full meaning and far-reaching historical significance seem to have never been adequately grasped. "During the reign of Xerxes, in the beginning of his reign, they indicted a hostile charge against the population of Judah and Jerusalem." This is the entire statement. We are not told who it was that indicted this charge nor what the nature thereof may have been. But we are told very significantly that this charge was made "in the beginning" of Xerxes' reign, i. e. in his accession year, and in fact in the brief period between the moment of the death of Darius I, in November, 486 B. C., and the official beginning of Xerxes' first regnal year, in the early spring of 485 B. C.<sup>118a</sup> There is no possibility of determining precisely who were the authors of this charge against the people of Jerusalem, but it is reasonable to assume that once again, just as in the two other instances recorded in Ezra 4, it was the Persian officials in Samaria who made this report;

<sup>118a</sup> For a closely parallel expression with precisely the same connotation cf. Jer. 26.1 ff. and also the parallel Accadian term, *rēš šarrūti*, "the beginning of the kingship." Among the majority of the nations of the ancient Near East the regnal years of a king were reckoned formally by the system which is commonly termed post-dating, i. e. from the first official New Year's Day, determined by the system of calendation employed by that particular nation, which followed the death of the preceding king and the assumption by the new king of the reins of the royal office. The period which intervened between the death of the old king and the next ensuing New Year's Day, when the first formal regnal year of the new king began, was known as "the beginning of the kingship of X," the new king.



or if not they themselves, then assuredly certain persons, perhaps the official representatives of the various peoples and provinces neighboring upon Judaea, who, for cogent reasons of their own, as we shall soon see, may have sent this information to the new king.

Nor, as has already been intimated, can there be the slightest doubt just what the contents of this report may have been. That it was a hostile charge, definitely unfavorable to the Jewish people, the word *siṭnah*, "hostile accusation," implies unmistakably. And made in the accession year of the new king, even before he had been formally installed in office and his first, official regnal year had begun, presumably therefore before he could have gotten administrative affairs firmly in hand, it could have only one import. Linked with the direct suggestion expressed in Ezra 4.15, 20, the significance of which we have already determined, it can mean only that it must have been at just this seemingly opportune moment of the death of Darius I and the accession of Xerxes to the Persian throne, i. e. in the two final months of 486 and the first three months of 485 B. C.,<sup>119</sup> that this second rebellion of the Jewish people, or at least of the nationalist party within it, directed to the end of throwing off the Persian yoke, regaining political independence, and setting a native Jewish king upon the throne, was attempted. The moment must have seemed to these intense Jewish nationalists auspicious. For it they had undoubtedly been waiting throughout the entire, long reign of Darius I.

The whole situation is easily reconstructed. While undoubtedly a considerable section of the people, and in particular the universalist party, must in 520 B. C. have been readily reconciled to the failure of the Zerubabel rebellion and its high hopes, especially when thereafter the Persians renewed their sanction of the rebuilding of the Temple and even assisted therein, and the theocracy was instituted,<sup>120</sup> there must have remained a by no means small or uninfluential portion of the people, ardent nationalists, who refused to be reconciled or to regard the theocracy, with the "anointed priest" at its head, as a worthy substitute for political independence and self-government or the "anointed priest" as a satisfactory replacement for the anointed king, the true *mašîaḥ* or "anointed one," the scion of David. For the time being these nationalists could have no alternative but to quietly accept the situation. But their yearnings and hopes persisted and no doubt grew stronger with the passing years and with slowly returning

<sup>119</sup> I. e. between November, 486 and April, 485 B. C.; cf. Parker and Dubberstein, *op. cit.*, 14, 29.

<sup>120</sup> "Two Prophecies from 520-516 B. C.," 400-427.

normalcy and perhaps even a certain prosperity. Unquestionably they were only biding their time until a favorable opportunity for a renewed attempt to recover political independence and nationhood might present itself. We may be certain that during the long reign of Darius I the Persian administration of the Judæan province was efficient. Not at all improbably the Persian officials sensed the undercurrent of dissatisfaction and rebelliousness which animated a certain section of the people and took measures to control it. Accordingly during the greater part of the reign of Darius I the nationalist program must have been in a state of eager suspense, and, as has already been suggested, the nationalist party must have operated largely underground.

In all probability the defeat of the Persians at Marathon in 490 B. C. raised the spirits and hopes of the Jewish nationalists immeasurably.<sup>120a</sup> It demonstrated convincingly that the Persians were by no means invincible, as popular belief among the peoples of Western Asia, based primarily upon the victories and conquests of Cyrus some fifty years earlier, had undoubtedly come to regard them. And not that alone, but the victory at Marathon had been gained by a little, insignificant nation, previously almost unheard of, scarcely, if at all, larger in number and in power than the Jewish people.

Now, if by their own, human efforts alone the Athenians could gain a victory so significant, then what might not the Jewish people accomplish when supported, as these nationalists firmly believed they were, by the sure promise of their own national god? For He was not only their own national god, but He was also the one, universal God, whose authority and will prevailed over all nations and peoples, the Persians included, and who was, as the prophet Malachi proclaimed Him at just about this time, the "great King," whose name is revered among the nations.<sup>121</sup> And had He not promised to His people, so at

<sup>120a</sup> Not at all improbably there were some among the ardent nationalists who attributed this Persian defeat at Marathon to Yahweh, in His rôle as universal God and in fulfillment of His world-purpose, particularly as this affected the Jewish people, in quite the same manner as Deutero-Isaiah had almost forty years earlier attributed Cyrus' successive victories and his establishment of the Persian Empire to Yahweh (Isa. 45.1 ff.). And again in the same manner a later writer, certainly a nationalist, attributed the victory of the Greeks over the Persians at Artemisium and the destruction of the Persian fleet in 480 B. C. to Yahweh (Ps. 48.5-8; Ezek. 27.26-36; cf. "Psalm 48," 5-18). And quite similarly other nationalist spokesmen affirmed, in the period following upon the complete collapse of Xerxes' war against Greece, i. e. in the period beginning with 479 B. C., that the conquest of the Edomites and the ravaging of their land by the Nabataeans, just emerging from the Arabian Desert, had been actually brought about by Yahweh (Mal. 1.2-5; Isa. 34; 63.1-6).

<sup>121</sup> Mal. 1.14.

least many among them believed implicitly and eagerly, world-dominion, that, in other words, they would, with His help and in fulfillment of His revealed purpose, supplant the Persians as world-rulers?<sup>122</sup> After all there was nothing too fantastic in this hope and program, for but a little more than a half-century earlier what had the Persians themselves been but a simple, culturally undeveloped people, which had hitherto played no role whatever in world-affairs. But under Cyrus, their great king, whom Deutero-Isaiah had hailed as Yahweh's "anointed one,"<sup>123</sup> His chosen king and world-ruler, whom, in fulfillment of universal, divine purpose, He had prospered and made victorious in all his campaigns, they had achieved world-dominion. What then might not Judah, Yahweh's own people, hope to achieve under the leadership of its own native king, a scion of David, Yahweh's true "anointed one," reenforced by Yahweh's personal support in battle, by Yahweh Himself going out with their armies and fighting actively in their ranks, in literal fulfillment of His promise to them? With the background of this assurance the dream of freedom from the Persian yoke, regained political independence, and even eventual world-dominion, the establishment of a Jewish world-empire, similar to and replacing the present Persian world-empire, a Jewish world-empire which, under Yahweh's protection and in accord with His world-purpose, would endure forever, a Jewish world-empire for which, viewed from a certain angle, the present Persian world-empire was merely the forerunner and preparation, was certainly not unjustified, nor was the expectation of its realization unreasonable. Beyond all question the Battle of Marathon provided a strong stimulant to the faith and hopes of these eager Jewish nationalists, who were merely biding their time before actively reinaugurating their program, Jewish nationalists, be it remarked here who were, in their program of world-dominion, as we shall learn in due time, likewise Jewish universalists, at least of a kind.

By 490 B. C. Darius I was growing old. He had already occupied the Persian throne for thirty-one years. It was a reasonable assumption that the moment of his death could not be too far off. That moment, whenever it might come, with the confusion always attendant upon a change of rulers, would, so these Jewish nationalists must have reasoned among themselves, be most opportune for launching their program. Meanwhile plans must be matured and preparations made so that all might be in readiness for the decisive moment. Their

<sup>122</sup> To be treated in the continuation of this study in subsequent volumes of *HUCA*.

<sup>123</sup> Isa. 45.1.

unhappy experience in the Zerubabel rebellion thirty years earlier had taught them a valuable lesson. Then they had waited too long and had inaugurated their program far too late. Had they been prepared to act promptly after the death of Cambyses and during the practically two years of chaos in the Persian royal administration which followed immediately thereupon, in other words had their rebellion been launched in 523 or 522 B. C., before Darius I had become king, consolidated his strength and brought order out of the prevailing chaos, instead of near the end of 520 B. C., their rebellion might have succeeded; so at least they could think with good reason. But by the time they were ready to act Darius I had established himself firmly upon the Persian throne and had the administration of the empire well in hand, with the result that all chance of a successful outcome to their venture had vanished. Let them not repeat this tragic mistake now.

In all likelihood something of the purpose of these nationalists, and particularly of their plans of conquest and territorial expansion, had become generally known, and especially to the nations immediately adjacent to Judaea. They could not but understand that they would necessarily be the very first victims of this program. Not at all improbably, as has already been intimated, minor, initial hostilities had even been attempted against the Edomites and the Philistines, Judaea's immediate neighbors, which aroused the implacable hatred and burning desire of these two nations for revenge. Certainly, as the plans of these Jewish nationalists began to take shape and, at least in their broad outlines, to become generally known, the neighboring nations must, in turn, have become correspondingly restless, and their animosity towards the Jewish people and suspicion of its intentions must have grown apace. They too must have sensed that the impending death of Darius I would be the moment for the launching of the Jewish nationalist program, if it was ever to find realization in any measure. For them too therefore it promised to be a moment of crisis, for which they too must prepare, so that, whenever it might come, they too would be ready to act promptly and effectively.

In November, 486 B. C. Darius I passed away. His death followed not too long after the day of the autumnal equinox, the Jewish New Year's Day, upon VII/10, according to the calendar then in vogue in the Palestinian Jewish community. Upon this day of supreme sanctity the kings of Judah had from very early times been regularly anointed and inducted into the royal office.<sup>124</sup> Quite probably for some

<sup>124</sup> Morgenstern, "The New Year for Kings," in the *Gaster Anniversary Volume*, 439-456.

weeks, or perhaps even for some months, Darius' death had been anticipated from day to day. Therefore, as Ps. 2 records, already upon this Jewish, equinoctial New Year's Day of 486 B. C., precisely thirty years after the second Temple had been dedicated, the newly selected king of Judah was anointed and was formally installed in the kingship. This act was of course tantamount to, and was no doubt accompanied by, an official proclamation of Judah's political independence. The rebellion had now definitely begun.

The moment was favorable indeed. Xerxes, Darius I's successor, had his hands full. In addition to meeting the momentary challenge of a rival claimant to the throne, his older brother, Artobazanes,<sup>125</sup> he had to deal with a serious rebellion in Egypt, a province conquered barely forty years earlier by Cambyses, and which also was apparently waiting eagerly for the opportune moment of the death of Darius I to make an earnest effort to regain political independence.<sup>126</sup> Quite naturally this Egyptian rebellion was of far greater magnitude and far more threatening to the stability of the Persian Empire than was that of the little Jewish people. With it Xerxes had to deal by direct action. The rebellion of the little, relatively insignificant Jewish people he could handle by indirect but equally effective measures.

He had, so we have learned, been informed by the Persian administrative officials of Judah and Samaria of what was brewing in Jerusalem,<sup>127</sup> and likewise of the rapidly expanding fears of and animosities toward the Jewish people and their evolving nationalist program on the part of the neighboring nations. Taking prompt advantage of this situation, Xerxes granted to these nations, Edom, Moab, Ammon, the Philistines, Tyre and Sidon, permission to form a coalition against Judah, to hire mercenaries from various Bedouin tribes of the Sinaitic and Syrian Deserts, and to invade Judaea. Apparently he even sent a small Persian military force to evidence concretely his endorsement of this warlike undertaking. All this is the testimony of Ps. 83:7-9, and particularly of the statement of v. 9, that Ashur, i. e., as we have learned, Persia, joined itself with Judah's enemies, was an arm, a support, to the sons of Lot, i. e. to Moab and Ammon. This Persian participation in the campaign was undoubtedly of only

<sup>125</sup> Herodotus, VII, 2 f.

<sup>126</sup> Herodotus, VII, 1, 5, 7-8; Olmstead, *History of Palestine and Syria*, 579.

<sup>127</sup> In fact this must have been the "hostile accusation" of Ezra 4.6. Unquestionably these Persian provincial officials must have sent to Xerxes a full and detailed report of what was transpiring in Judaea and the adjacent states. Of this report the statement in Ezra 4.6 is of course only a very brief summary, but a summary meaningful indeed in the historic setting which we have recovered for it.



minimal extent and token nature, since at the moment, so we may assume, Xerxes could spare only a very small portion of his Persian army; but in no wise was it of incidental and meaningless character.

The death of Darius I must have found these allied states better organized and more prepared for immediate and decisive action than were the Jewish rebels. The latter, despite their apparent realization of the grave and costly error which they had committed thirty-four years earlier, in advance of the Zerubabel rebellion, and which, more than all else, had from the first doomed that rebellion to failure, had, so it seems, once again relied too largely upon a fancied promise of divine help in the execution of their program. This divine help, as we shall learn later, they envisaged in very realistic form. Both because He was, in first degree, their own national god, and also in fulfillment of His presumptive world-purpose for them and for all mankind, Yahweh would Himself go out in their ranks and fight on their behalf; and of course under these circumstances numbers, whether of their own forces or of those of their enemies, were of little moment, for certainly the presence of Yahweh, the one, true world-God, in their midst and fighting on their side assured them of victory. Therefore, perhaps not at all surprisingly, despite long cherished hopes and plans, they had neglected to make adequate material preparations for either offense or defense. As Ps. 2 indicates unmistakably, already by the New Year's Day of 486 B. C., the day of the anointing and investiture of the new Jewish king, the coalition of hostile, neighboring states was ready for action and was, so it seems, even encamped upon Judah's borders and about to invade the country. But, as both Ps. 2 and 83 establish clearly, the Jewish nationalists in Jerusalem were not at all dismayed. Their absolute faith in Yahweh and in His supposed promise to them of total victory over all their adversaries and their trust in their newly anointed king buoyed them up and would not allow the threatening situation to alarm them too greatly. In fact in his sublime confidence in the divinely appointed destiny of his people, under the leadership of the new king, the author of Ps. 2, plainly an extreme nationalist, calls upon these hostile kings to take warning and to submit themselves to Yahweh and to His chosen king before it be too late. The full import of this warning and of the procedure of submission which it suggests will be determined in due time.

But, as can easily be imagined, undeterred by any such warning, if it ever reached them, these foreign nations and their leaders proceeded promptly to carry out their well-planned campaign. The invasion of Judaea was pushed rapidly. Apparently it found the Jewish nationalist forces too few and too weak, and likewise too unprepared,

to offer effective resistance. They were speedily overwhelmed and routed. The enemy advanced rapidly, massacring, taking captives and destroying ruthlessly as they went. The Jewish people were powerless to save themselves. Surrounded on all sides by implacably hostile nations, they had no place whither they might flee except into the fortress-city, Jerusalem, itself. We can readily imagine that, trusting in its traditional impregnability<sup>127a</sup> and still putting faith in the supposed divine promise of victory, now presumably merely deferred, a large host of fugitives from the outlying districts sought refuge in Jerusalem.

The siege of the city followed quickly. Apparently it did not endure long. Once again, no doubt still misled by their implicit faith in the promised, divinely mediated victory, the population of Jerusalem found themselves totally unprepared for this siege. The fall of the city came speedily and completely. Joel 2.15-17, quite manifestly where it stands, a dislocated, interpolated fragment, which presents an altogether different picture than does the remainder of the chapter of the sad state of the Palestinian Jewish community and of the cause thereof, portrays graphically the panic of the people as the impending doom drew nearer and nearer.<sup>128</sup> The ruthless enemy rushed in through the breaches in the walls. As Obad. 11-14 and Ps. 137.7-9 indicate, the Edomites seem to have surpassed all the other federated nations in the savagery of their slaughter of the helpless Jewish populace. The Temple, despoiled of its treasure, was set on fire and was destroyed, if not altogether completely, at least almost so.<sup>129</sup> The city walls were razed and the city was devastated. Many thousands of the Jewish people, who had escaped massacre, were taken captive and carried off to be sold to the Greeks for resale in the slave-markets of the western world. Apparently the most active participation of the Tyrians and

<sup>127a</sup> Cf. Lam. 4.12.

<sup>128</sup> Careful analysis establishes with certainty that Joel 2.15-17+19b are an interpolation. Whereas the remainder of the chapter deals with the ravaging effects of the plague of locusts and Yahweh's promise of relief therefrom, the theme of these vv. is the conquest of Judah and Jerusalem by foreign nations, with the result that the conquered Jewish people have become an object of derision unto them and Yahweh Himself is blasphemed by them. In this last thought we must see of course an expression of the doctrine of "for His name's sake." Unquestionably only the bitter national catastrophe which we are gradually unfolding can constitute the historical background of this interpolated passage. It is undoubtedly a dislocated fragment of some larger text which dealt with this tragic event in Jewish history in one manner or another. It should be noted that with the excision of these vv. the remainder of the chapter reads more smoothly and its thought is completely unified.

<sup>129</sup> Cf. in particular Ps. 74.3-8.

Sidonians, and perhaps to some extent of the Philistines also,<sup>130</sup> was in this commercial, rather than in the military, phase of the campaign.

Seemingly the entire campaign was concluded quickly. All told it endured for not more than four months, and not at all improbably for a much briefer period. The recently anointed Jewish king succeeded in escaping from Jerusalem, only, however, to be speedily pursued and captured by the enemy.<sup>131</sup> Just what was done with him is not known definitely, but there is little reason to question that he was put to death, together with his entire entourage, by the ruthless and determined enemy, and this too, there is further reason for believing, only after being tortured mercilessly.

But a pitiful handful of the Jewish community of Judaea survived the general massacre, the ensuing pursuit of the fugitives therefrom, and the sale into slavery in lands across the sea of those who were captured. This little handful constituted "the remnant left from the captivity," a title which, it is now clear, described most literally their unhappy and even tragic situation. The land had been devastated.<sup>132</sup> Jerusalem had been depopulated and demolished. The Temple had been burned and reduced to ruin. The substance of the people, whatever it may have been, was dissipated completely. At the most they could eke out only a scanty and miserable existence. Above all else, their hopes were shattered, for the moment at least, and their spirits crushed. And, quite naturally, their faith in Yahweh was sorely strained. Remembering His supposed promise to give them victory over all their enemies and with this eventual world-dominion, it must have seemed to some, perhaps even to many, that He had actually betrayed them, that He had not gone out with their warriors into battle, as He had undertaken to do, and that it was chiefly, if not solely, because of this failure on His part that this catastrophe had

<sup>130</sup> Inasmuch as Gaza had been from fairly early times one of the important slave-markets of the Near East; cf. Amos 1.6.

<sup>131</sup> Lam. 4.20; Ps. 89.39-52.

<sup>132</sup> A graphic and moving picture of the extreme devastation of the land and its almost total depopulation by these ruthlessly hostile nations is furnished by Ezek. 36.1-15, and especially by vv. 4 and 11. That the conquest of Judah by "the nations round about" recorded in this passage refers to this catastrophe in 485 B. C. we have already established. Apparently in the years immediately following this unhappy event a tradition, or, perhaps better, a superstition, seems to have been current for a time in a certain section of the surviving remnant, that it was hopeless for any nation or people to attempt to live in Palestine, that it was a land which eventually cast out (literally "miscarried") every people or nation which might establish itself therein. This belief Ezek. 36.12-15 undertakes to refute. Vv. 12-15, voicing this specific theme, may well be not integral with, but a later supplement to, vv. 1-11.

befallen them.<sup>133</sup> Yet they dared not repudiate their faith in Him and His covenant with them completely, for without Him what hope and what assurance for the future could they have? With this background of experience in both fact and emotion on the part of this pitiable remnant, it is easy to comprehend the full import of the anguished cry in Isa. 63.15–64.11.<sup>134</sup> Sheer helplessness and desperation, if naught

<sup>133</sup> Ps. 44.10; 60.12 (= 108.12).

<sup>134</sup> And especially in 64.4–11. These vv., the Massoretic text of which is plainly quite corrupt, I would reconstruct thus:

3/3	אף יגועל חסיוֹשֶׁר / ועשה־צדק בדרכיִךְ יבחרוּ	4
3/3	כִּיהִנִּיאֲתָנוּ וְנִחַטָּא בְךָ / מְעוֹלִם קִצַּפְתָּ וְנִפְשַׁע	
3/3	וְנָהִי כְטָמָא כְּלָנוּ / וְכַבֵּד נִדָּה כְּל־צִדְקָתֵינוּ	5
3/3	וְנִבְלָל כְּעֵלָה כְּלָנוּ / וְעוֹנֵינוּ כְּרוּחַ יִשְׂאֵנוּ	
3/3	וְאִין קוֹרָא בְּשִׁמְךָ / מִתְּעוֹרֵר לְהַחְזִיק בְּךָ	6
3/3	כִּיהִסְתַּרְתָּ פָּנֶיךָ מִמֶּנּוּ / וְהִמַּגְנוּ בִיד מַעֲנֵינוּ	
4/4/3	וְעַתָּה יְהוָה אֲבִינוּ אַתָּה / אֲנַחְנוּ הַחֲמֵר וְאַתָּה יִצְרָנוּ / וּמַעֲשֵׂה יָדְךָ כְּלָנוּ	7
4/4/3	אֵל תִּקְרָא יְהוָה עֲדִימָאד / וְאֵל לַעֲד חֹזֵק עוֹנֵינוּ / הַבְּטִינָא עִמָּךְ כְּלָנוּ	8
3/3	צִיּוֹן מְדַבֵּר הִיתָה / יְרוּשָׁלַם בְּשִׁמְמָה שְׁמוֹה	9
3/3	בֵּית קִדְשֵׁנוּ וְתַפְאֲרָתֵנוּ / אֲשֶׁר הִלְלוּךְ אֲבוֹתֵינוּ	10
3/3	הִיא לְשֹׁרֶפֶת אֵשׁ / וְכִלְמַחְמֵדְנוּ הִיא לְחֶרֶבָה	
3/3	הַעֲלִיאֵלָה תַּתְּאֲפֵךְ יְהוָה / תַּחֲשָׁה וְתַעֲנֵנוּ עֲדִימָאד	11

4. However, Thou hast rejected the upright man  
And him who does righteously, those who choose Thy ways;  
For Thou hast let us go astray, so that we have sinned against Thee;  
For a long time hast Thou been angry, while we have transgressed;
5. So that we have become as one defiled, all of us;  
Even as the garment of a menstruous woman are all our righteous acts.  
Yea, we have become withered like a leaf, every one of us,  
And our iniquities carried us away as the wind;
6. So that there was no one calling upon Thy name,  
Who bestirred himself to lay fast hold upon Thee;  
For Thou didst hide Thy face from us,  
And didst deliver us into the hand of our enemies.
7. But now, O Yahweh, our Father art Thou;  
We are the clay and Thou art our Fashioner,  
Yea, the work of Thy hand are we all.
8. Be not angry, O Yahweh, too exceedingly,  
And cherish not forever the memory of our iniquities;  
Take note, O pray, that Thy people are we all.
9. Zion has become a wilderness,  
Jerusalem, a desolate place have they made it.
10. Our holy Temple, yea, our glory,  
Where our fathers offered praise unto Thee,  
Has become a charred waste;  
Yea, our entire beloved place has become a ruin.
11. In the light of all this, O Yahweh, wilt Thou hold Thyself back;  
Wilt Thou keep still and let us be crushed to the utmost? ^

else, inability to turn elsewhere for help, kept the surviving Jews loyal to their God and sustained their faith in Him.

Such is the story of the conquest and devastation of Judah, the siege and capture of Jerusalem, the burning of the second Temple, the massacre, captivity, enslavement and dispersion of by far the larger portion of the Jewish community of Palestine, and the leaving of only a "remnant from the captivity" resident in the land, by the Edomites, Moabites, Ammonites, Philistines, Tyrians, Sidonians and Persians, in the accession year of Xerxes, 486-5 B. C.

Despite the fact that no direct account of this tragic episode in the history of the Jewish people has been preserved in the Bible, due undoubtedly to the fact that no chronological record seems to have been made, and much less a systematic and fairly contemporary history written, of the events which transpired in the life of the Jewish people between the release of Jehoiachin from prison by Amel-Marduk of Babylon in 561 B. C.<sup>135</sup> and the coming of Ezra to Jerusalem in 458 B. C.,<sup>136</sup> this period when no king sat upon the Judaeian throne, at least for any reasonable length of time, with the result that no royal chronicles of events were made and preserved, the memory of this tragic experience, one of the most tragic in all Jewish history, lived on, deeply engraved upon the soul of the Jewish people, and found occasional reference, not only in Biblical, but also in extra-Biblical Jewish literature.

I Enoch 89.66, 74 f. seem to know of a destruction of Jerusalem other and later than that by the Babylonians in 586 B. C., in which

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a. This emendation was suggested by a member of my 1955-6 seminar, Rev. John Ralls.

b. There is here a very effective paranomasia in the words ירושלם and שממה and in the contrast of the picture suggested by the former word and that implicit in the second half of the name, Jerusalem.

c. This word, indispensable for the meter, was probably lost by haplography.

It may be noted that in this address too, and particularly in 63.17 and 64.4 (as we have reconstructed this v.)-6, there is something of the accusation against Yahweh already noted, that He had not fulfilled His covenant obligation to His people, that He had led them astray, or at least had Himself allowed them to depart from His way, that He had even disregarded those who earnestly sought to walk in this way and then had become angered because of these sins on their part, for which He was Himself responsible in some measure, and in His anger had allowed them to be oppressed and made to suffer far too much.

<sup>135</sup> 2 Kings 25.27-35.

<sup>136</sup> The grounds for our adherence to this, the traditional date of Ezra's coming from Babylon to Jerusalem, will be presented in the continuation of this study in a subsequent volume of *HUCA*.



the Edomites<sup>137</sup> played a decisive rôle, and in which the greater part of the Jewish people were destroyed, and which was followed by the great dispersion. Likewise vv. 72 ff. tell of three who attempted to rebuild the Temple; and, recorded in just this setting, one of these attempts must have been that necessitated by the destruction in 485 B. C. Likewise I Esdras 4.45, 50 speak, though with unmistakable confusion of the event with the destruction of Jerusalem and the Temple by the Babylonians in 586 B. C., of a burning of the Temple by the Edomites and a forcible seizure by them of certain villages of the Jews. As S. A. Cook has established convincingly,<sup>138</sup> there is every reason to believe that a specific incident of Jewish history is here referred to; but this can not have been the catastrophe of 586 B. C., for at that time the Edomites, and also the Moabites and Ammonites, were allied with Judah against Nebuchadnezzar;<sup>139</sup> therefore it must have been an event of similar, catastrophic character, in which the Edomites played an active role, and which transpired at some moment later than 586 B. C. Also the recently discovered Dead Sea Scroll narrative of the Wars of the Sons of Light against the Sons of Darkness represents the Edomites, Moabites, Ammonites and Philistines as constituting the army, or at least a portion of the army, of Darkness.<sup>140</sup> Very plainly we hear here a distinct echo of the historic event, the detailed story of which we are endeavoring to piece together. Justin<sup>141</sup> too tells of a conquest of the Jewish people by Xerxes, king of Persia.

In the light of all this evidence which we have correlated and the quite startling conclusion which we have had to draw from it, it is significant indeed that already in 1899 Hugo Winckler,<sup>142</sup> basing himself solely upon an analysis of Obadiah, reached the conclusion that between the Babylonian conquest of Jerusalem and destruction of the Temple in 586 B. C. and the war with Antiochus Epiphanes of Syria in the second quarter of the second century B. C. Jerusalem must have

<sup>137</sup> Here represented symbolically as the wild boars; cf. Charles, *The Apocrypha and Pseudepigrapha of the Old Testament*, II, 256, note. The destruction of the Temple referred to in v. 66 is certainly other and later than the destruction recorded in v. 56. Moreover, in that first destruction the wild beasts, i. e. the Edomites, had no part, while in the destruction of the Temple recorded in v. 66 and the ensuing devastation of the Jewish people they are accorded a definite and active rôle.

<sup>138</sup> Introduction to I Esdras, in Charles, *op. cit.*, I, 13 f., and "The Age of Zerubabel," in *Studies in Old Testament Prophecy* (ed. Rowley), 32 f., 35.

<sup>139</sup> Jer. 40.11.

<sup>140</sup> Sukenik, *'Ôṣar Ham'gillôt Hag'enûzôt*, p. 16, ll. 1-2.

<sup>141</sup> XXXVI, 3.

<sup>142</sup> *Allorientalische Forschungen*, II, 431 f. Note in particular the two final paragraphs.

been conquered and destroyed upon one other occasion, and that in this unhappy episode the Edomites must have played a very active part. George Foot Moore<sup>143</sup> too drew from the account of Nehemiah's grief, when the report of the sad state of Jerusalem and its populace was given to him, and of his subsequent conduct the inference that some grave calamity, one effect of which was a destruction of the city, had befallen the Jewish people shortly before Nehemiah's time. And Sellin too reached much the same conclusion.<sup>144</sup> Of these three scholars only Sellin attempted to pursue his initial inference to its complete and logical conclusion, and he entirely without success.

Such are the evidence and the broad conclusion which we have drawn therefrom with regard to the destruction of Jerusalem by a coalition of the nations and peoples immediately adjacent to Judaea and the tragic consequences for its little Jewish community attendant thereon in the accession year of Xerxes, king of Persia.

During the course of this investigation various challenging questions have arisen, some of them basic to the proper reconstruction and authentication of the historic event which, at least in its broad outlines, we have recovered. In particular we have had occasion to note the firm belief of the nationalist party in the post-Exilic Jewish community, a belief fraught with far-reaching implications and tragic consequences, that Yahweh had promised to His people not only restoration of political independence and renewed national existence, but also world-conquest, to be achieved with His immediate and very concrete assistance, and resultant world-dominion, in other words a Jewish world-empire, a Jewish world-empire which would of necessity supplant the Persian world-empire established by Cyrus. What evidence is there for this?

We have said also that this deeply-rooted belief carried with it the implied, or perhaps even the expressed, promise by Yahweh of the restoration to the throne of Judah of a native Jewish king, presumably of the Davidic dynasty. That this was the confident expectation of the nationalist party with regard to Zerubabel in 520 B. C. the words of the prophets Haggai and Zechariah attest amply. But Ps. 2.6-9; Lam. 4. 19-21 and Ps. 89.39-52 speak also of a king actually ruling over Judah, an anointed one, plainly a scion of David, and plainly too not identical with Zerubabel, a king whose anointing and enthronement were attended by exalted nationalistic hopes and confident expectations, a king who after a reign of manifestly very brief duration, was

<sup>143</sup> *Judaism*, I, 23.

<sup>144</sup> *Serubbabel*, 57 f.

forced to flee before a conquering and merciless enemy, and who was captured and, impliedly, was put to death. We have linked Ps. 2 with the Jewish New Year's Day, VII/10, 486 B. C., and the anointing of this king upon this very day, and with this the inauguration of this second Jewish rebellion against Persia. And, as we have noted also, Lam. 4.21 expressly identifies the Edomites as the hostile nation whose warriors pursued and captured this Jewish anointed king and ruthlessly removed him from the stage of history. That Ps. 89.39-52, which recounts the sad fate of a Jewish anointed king at the hands of enemy nations who were the immediate neighbors of the Jewish community in Palestine, a Jewish king of the Davidic line, His covenanted obligation with whom Yahweh had utterly failed to fulfill, refers to this same king seems reasonably certain. Is it possible to ascertain anything more about this king, and particularly just what his name may have been and what the circumstances attendant upon his anointing and installation in office?

Sound and adequate answers to these cogent questions will assuredly add much to that which we have already learned concerning this tragic catastrophe to the Jewish people in 486-5 B. C.

*(To be continued)*



## PSALMS 34 AND 145 IN THE LIGHT OF THEIR KEY WORDS

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IN a monograph devoted to a study of Psalms 1, 12, 14, 73 and 82 Martin Buber operates with the following principle: "The recurrence of the key-words is a basic law of composition in the Psalms. This law has a poetic significance — rhythmical correspondence of sound values — as well as a hermeneutical one: the Psalm provides its own interpretation, by repetition of what is essential to its understanding."<sup>1</sup>

In order to test the validity of the "basic law of composition in the Psalms" applied by Buber, the present writer selects for analysis in this paper two out of the eight or nine alphabetical Psalms, namely, Psalms 34 and 145. He does so advisedly, inasmuch as regarding this particular category of Psalms, S. R. Driver expresses the view that "the alphabetical order appears to have been sometimes adopted by poets as an artificial principle of arrangement, when the subject was one of a general character, that did not lend itself readily to logical development."<sup>2</sup> As for Psalms 34 and 145, the following typical comments reflect the opinion of a considerable number of interpreters of the Book of Psalms. Concerning Psalm 34 Duhm writes: "alphabetisch, . . . und ist ein Mosaik"; Kittel: "im zweiten Teil wird eine Anzahl von religiösen Sentenzen ziemlich lose aneinander gereiht"; Bertholet: "Ein alphabetischer Psalm, in dem man so wenig einen strengen Gedankenaufbau suchen darf wie Ps. 25"; and Gunkel: "Von einem alphabetischen Psalm kann man bei den grossen formellen Schwierigkeiten, die er zu überwinden hat, keine allzustraffe Gedankenordnung verlangen." As regards Psalm 145, Buttenwieser states: "Poetically the hymn is worthless. It appears to be

<sup>1</sup> M. Buber, *Good and Evil* ((New York 1953), p. 52. The first part of this work, pp. 7-60, is a translation of the author's *Ha-Zedek v'he-'Avel 'al pi Zeror Mizmore Tehillim* (Jerusalem 1950). On *Leitwortstil* in the Pentateuch see M. Buber and F. Rosenzweig, *Die Schrift und ihre Verdeutschung* (Berlin 1936), pp. 211 ff. and 262 ff.

<sup>2</sup> *An Introduction to the Literature of the Old Testament* (Edinburgh 1950 reprint), p. 368.



a product of the time of literary decadence"; Kittel: "Die alphabetische Anordnung und die spruchartige Dichtung erschweren die Feststellung eines strengen Gedankenfortschritts"; Bertholet: "Ein alphabetischer Psalm, wie die meisten dieser Dichtungen ohne streng logischen Aufbau, eine lose Aneinanderreihung . . ."; and Gunkel: "Der Psalm, alphabetisch geordnet, und darum mehr eine Künstelei als ein Kunstwerk zu nennen."

In striking contrast to these estimates of alphabetical Psalms in general and of Psalms 34 and 145 in particular are the views of the following commentators. In speaking of acrostic Psalms as a group, Kirkpatrick maintains that "such an arrangement, artificial though it seems, does not necessarily fetter a poet."<sup>3</sup> According to König, Psalm 34 "zerfällt trotz seiner alphabetischen Anordnung doch in zwei Sinnabschnitte." And with reference to Psalm 145 Oesterley points out that "in spite of its being an acrostic psalm . . ., there is no sign of mechanical construction . . ."; while König concludes his analysis of this Psalm with the following statement: "Dieser Versuch, den *Gedankengang* dieser Dichtung zu durchschauen, wird hoffentlich, wenn er auch, soviel ich aus den neueren Kommentaren . . . ersehe, der erste ist, im wesentlichen das Richtige treffen."<sup>4</sup>

Having pointed up the divergence of opinion that prevails among scholars apropos of the literary merit of Psalms 34 and 145, the present writer will now attempt to demonstrate that, on the basis of the key words which they contain, these two alphabetical Psalms exhibit *Kunstwerk* and not *Künstelei* and reflect perfect progress of thought and logical sequence. They may be alphabetic acrostics, but, to use the words of Buttenwieser in connection with Psalm 25, another alphabetical Psalm: "this fact, analysis shows, proved no drawback to the poet's skill."

### *Psalm 34*

The superscription of this Psalm cannot be said to be an integral part of the composition. It was apparently inserted because, as has been observed,<sup>5</sup> מַשְׁכֵּן in verse 1 tallies with מַשְׁכֵּן in verse 9.

The analysis which follows attempts to show that, in the light

<sup>3</sup> *The Book of Psalms* (Cambridge 1916), Introduction, p. LXIV.

<sup>4</sup> Despite his failure to reckon with *Leitwortstil*, Kittel's analysis of this Psalm, and not König's, is the closest approximation to the logical division of this Psalm on the basis of its key words.

<sup>5</sup> In the commentaries of Franz Delitzsch and Baethgen.

of the various key words, both the structure as well as the contents of this Psalm point unmistakably to its logical division into the following four units:

- I. vss. 2-4;
- II. vss. 5-11;
- III. vss. 12-15; and
- IV. vss. 16-23.

The key words in the first unit are the tetragrammaton (*ter*) and the root הלל (*bis*), the latter appearing in anadiplosis: vs. 2b, תהללו; vs. 3a, תהללל. The use of a key word does not rule out recourse to synonyms. Thus the three synonyms for הלל are: ברך (vs. 2), נרל (vs. 4), and רומם (*ibid.*). The first half of this unit (vss. 2-3a) expresses the Psalmist's resolve to laud the Lord at all times; the second half (vss. 3b-4) extends his summons to the humble (עניים) to participate in the recital of praises to God.

Besides the tetragrammaton which is repeated six times, the second unit of the Psalm exhibits the four key words חסר, ירא, דרש, and טוב. The first is found at the beginning and toward the end of the unit: vs. 5a, וירשני את יהוה; vs. 11b, וירשני יהוה. The phenomenon of employing the same word both at, or toward, the beginning, as well as at, or toward, the end of a unit of thought is a characteristic literary feature. The poet resorts to this stylistic device not only at the beginning and end of a unit within a Psalm,<sup>6</sup> but also, as will be noted in the case of Psalm 145, at the beginning and end of a Psalm as a whole.<sup>7</sup>

<sup>6</sup> This literary device is not restricted to the Book of Psalms. F. Landsberger, *JBL* 73 [1954], 213 ff., observes the use of it in the Song of Songs. A specimen in prophetic literature may be noted in Isa. 34.11-17, whose delimitation as a unit of thought is indicated by בקו... יירשוה... ישכנו בה in vs. 11 and בקו... יירשוה... ישכנו בה in vs. 17.

<sup>7</sup> The following Psalms, besides 145, exhibit this phenomenon: 1: רשעים vss. 1, 6; 8: vs. 2a = vs. 10; 12: מבני אדם vs. 2, לבני אדם vs. 9; 17: צדק vs. 1, בצדק vs. 15; 20: יענך vs. 2, חסידיך vs. 10; 21: בעֲנֶה vs. 2, בעֲנֶה vs. 14; 29: ועו vs. 1, עו vs. 11; 52: חסד vs. 3, חסידך vs. 11; 58: חשפטו and צדק vs. 2, חשפטו and צדק vs. 12; 59: חנוכי vs. 2, שפטים and לצדיק vs. 12; 67: ויברכנו vs. 2, יברכנו vs. 8; 70: לעזרתי vs. 2, עזרי vs. 6; 71: אבושה vs. 1, בשו vs. 24; 73: טוב vs. 1, 28; 82: ישפט vs. 1, שפטה vs. 8; 96: הארץ vss. 1, 13; 97: ישמחו vs. 1, שמחו vs. 12; 103: ברכי נפשי את יהוה vss. 1, 22; 104: ברכי נפשי את יהוה vss. 1, 35; 106: לעולם vs. 1, מן העולם ועד העולם vs. 48; 107: חסדו vs. 1, חסדי vs. 43; 118: vs. 1 = vs. 29; 122: יהוה vss. 1, 9; 134: ברכו vs. 1, יברכך vs. 3; 136: כי לעולם חסדו vss. 1, 26; and 149: חסידים vs. 1, חסידיו vs. 9. Not included in this list are Psalms whose opening and closing verses have only the tetragrammaton, or אלהים, or הללויה, in common.

The Book of Job furnishes an example belonging to this category in ch. 15, where בטנו occurs in vs. 2 and ובטנם in vs. 35. As for the prophetic books, a specimen may be observed in Isa. 35, which opens with ישועם and closes with ששון.

See Addendum on p. 190.

The second key word, **ירא**, occurs in vss. 8 and 10. In the former, "the angel of the Lord encampeth round about *them that fear Him*"; in the latter, "there is no want to *them that fear Him*." Furthermore, in the last named verse God's "holy ones" are exhorted to *fear Him*.

The third key word, **חסר**, serves to identify those that seek the Lord with those who fear him. Thus, vs. 11 reads: "they that *seek* the Lord (want not any good thing)"; and vs. 10: "(there is no want) to them that *fear Him*."

The last key word, **טוב**, appears as an adjective in vs. 9: "the Lord is good"; and as a noun in vs. 11: "any good (thing)." Noteworthy are the two different connotations of **טוב** in these two verses.<sup>8</sup> While in the first the word has reference to the goodness of God, in the second it signifies "material, or worldly goods."

Once again we note that the employment of key words does not preclude the use of synonyms, as is evident from the occurrence of **הצילני** (vs. 5), **הושיעו** (vs. 7), and **ויחלצם** (vs. 8).

Having observed the outer form of the second unit of the Psalm, we turn now to its inner meaning in the light of the above key words. Following the call to laudation in the first unit, the second unit states the reason for the summons to the humble to praise God. Since experience has taught the Psalmist that his seeking the Lord evoked a response, he appeals to the humble to profit from his experience. He accordingly proceeds from the particular (vs. 5a) to the general (vs. 11b). The precious benefits which he derived from seeking the Lord (vss. 6 ff.) are at the disposal of all who will but emulate his example. The essential ideas which the poet intended to convey were, to judge from the key words, that whoever sets out to seek the Lord is apt, in the course of time, to learn to fear him, and fearing him, he will suffer no want; for, the Lord who is good will amply provide him with all worldly goods.

The reason why the third unit, the didactic part of the Psalm, follows at this point is quite obvious. Inasmuch as **ירא** is thrice reiterated in the previous unit, the present unit proceeds to define **יראה יהוה**. Moreover, since the preceding unit concludes with **טוב**, a word whose antonym is **רע**, the definition of the fear of the Lord is stated in terms of good and evil. The third unit thus follows in perfectly logical sequence.

<sup>8</sup> On this stylistic feature see C. C. Torrey, *The Second Isaiah* (New York 1928), pp. 199 ff. and D. Yellin, *Ketabim Nibharim*, vol. II (Jerusalem 1939), pp. 86 ff.

The two key words in this unit are טוב (*bis*) and רע (*bis*). Once again טוב is employed in two varying connotations, differing from those observed in the foregoing unit. The first טוב (vs. 13) signifies "happiness";<sup>9</sup> the second (vs. 15) has reference to good deeds, or ethical behavior. The key word רע is likewise used in two different senses. In vs. 14 it refers to evil speech, as is clearly attested by the mention in the context of the tongue, the lips, and deceptive talk; while in vs. 15 it is used in connection with wicked deeds (סור מרע ועשה טוב).

So much for the outer form of the third unit. The thought which it expresses is that he who fears the Lord and whose goal is to attain happiness in life must, from a negative aspect, speak no evil and do no evil, and, from a positive aspect, live the good life which consists in the performance of good deeds. Fear of the Lord, accordingly, means ethical behavior in one's human relations.

Having introduced the theme of good and evil in the third unit, the Psalmist, in the closing unit, presents a contrast between the blessed lot that is in store for the righteous and the dire fate that awaits the wicked. In order to make the contrast effective, recourse is had to alternation. Thus vs. 16 speaks of the righteous, vs. 17, of the wicked; vss. 18–21, of the righteous, vs. 22 of the wicked; and, to complete the process, vs. 23 reverts to the righteous. Parenthetically it may be observed that vs. 7 in our Psalm warrants the inference that its parallel in vs. 18 has reference to the righteous.

The three key words in the last unit of the Psalm are צדיק (*ter*), רע (*ter*), and הציל (*bis*). The choice of the word צדיק is especially noteworthy in that it is limited exclusively to this part of the Psalm. Its threefold occurrence in only vss. 16–23 presupposes the poet's conscious aim to treat this group of verses as a distinct unit of thought. That this was his intention is borne out still further if, in accordance with the view of a number of commentators, we choose to regard vs. 23 as a supernumerary verse. For if this be the case, then the concluding unit of the Psalm, like the second, is earmarked as such by the phenomenon of opening and closing with the same word, namely: vs. 16a — "the eyes of the Lord are toward *the righteous*"; vs. 22b — "and they that hate *the righteous* shall be held guilty."

Added significance attaches to the employment of צדיק in the closing section of the Psalm. The word צדיק marks a fitting climax to the expressions יהוה ירושי and יראי יהוה in the second unit. The former has reference to man's approach to God by way of seeking; the latter marks, as has been pointed out, an advance in thought, which is,

<sup>9</sup> BDB *Lexicon*, p. 375.

that the quest for the divine is conducive to the fear of the Lord. In the third unit, man's attitude of fear in his relation to God is defined to include moral behavior in his relation to his fellow men. Implicit in the transition from the third to the final unit is the thought that the person who fulfills the requirements set down in vss. 14-15 is a צדיק, a word descriptive of one who is just and righteous in character and conduct both towards God as well as towards men.<sup>10</sup>

The second key word in the last unit of the Psalm, רע (ה), appears in three verses. While in vs. 17 רע is the evil that men do, in vss. 20 (plural) and 22 (singular) רעה has the meaning "misfortune." That this is the connotation of רעה in the last named verse is borne out by the poignant contrast between vss. 20 and 22, which is, that whereas the righteous are spared from many a misfortune to which they are exposed (vs. 20), a single catastrophe suffices to bring about the complete downfall of the wicked (vs. 22a).

In contrast to the use of הציל once in the second unit (vs. 5), its twofold occurrence in the closing unit of the Psalm (vss. 18, 20) reflects the poet's aim to stress the assurance granted to the righteous that God will deliver them from their numerous vicissitudes. This, the central thought of the unit, is reinforced by the synonyms for הציל, which are יושע in vs. 19 and פודה in vs. 23.

Whether one regards vs. 23 as a primary or secondary element in the Psalm before us, its appropriateness in the structure of the composition becomes crystal clear in the light of two considerations. First, by the inclusion of vs. 23 a numerical harmony is introduced between the second and fourth units of the Psalm by the sixfold recurrence of the tetragrammaton in each. Secondly, an ideological harmony between the second and fourth units is established by means of the parallel between vs. 9b in the former and vs. 23b in the latter, which makes the Psalm conclude on the same note that is sounded in vs. 9b, namely, that of trust in the Lord.

A final point to be noted in the construction of the Psalm is the employment of שמע in each of its component parts and the alternate application of this verb to man and God. Thus, in the first unit (vs. 3) it is the humble who are summoned to hear; in the second unit (vs. 7) it is the Lord who hears the cry of the poor man; in the third unit (vs. 12) the Psalmist invites the young to hearken unto him; and in the last unit (vs. 18) it is once more the Lord who hears the cry of the righteous.

<sup>10</sup> BDB, p. 843.



*Psalm 145*

The superscription of this Psalm, unlike that of Psalm 34, is interwoven with its structure. The Psalm accordingly opens and closes with the same word. "Praise" is the first word of its initial verse as well as of its concluding verse. It is in this manner that the poet has earmarked, besides adopting the acrostic form, the basic unity of his literary composition.

The verb בָּרַךְ is placed in three significant positions within the framework of the Psalm, namely, at the beginning, in the middle, and at the end, in each instance in the second half of the verse, as follows:

vs. 1: וְאֵל בָּרַךְ כֹּה שִׁמְךָ לְעוֹלָם וָעֶד;

vs. 10: וְחַסִּידֶיךָ יְבָרְכוּ כֹה;

vs. 21: וְיִבְרַךְ כָּל בָּשָׂר שֶׁם קִדְשׁוֹ לְעוֹלָם וָעֶד.

These three half-verses constitute a progression. In the initial verse the poet alone blesses the Lord; in the central verse the select few, God's saintly ones, bless him; and in the final verse the climax is reached with the fervent hope that "all flesh" may bless him for ever and ever.

The verse in the middle position (vs. 10) divides the Psalm into two equal parts, each of which consists of three distinct units, as follows:

Prelude: vss. 1-2;

I: vss. 3-6;

II: vss. 7-9;

Interlude: vs. 10;

III: vss. 11-13;

IV: vss. 14-20; and

Postlude: vs. 21.

There is nothing subjective or arbitrary about dividing the Psalm in this particular fashion. For, in the main, it is the key words which determine the component parts in the above division of the Psalm. The units designated as Prelude, I, II, and III are each characterized by resort to the favorite stylistic device of opening and closing with the same word. Thus the Prologue opens with "praise" and closes with "and I will praise"; unit I opens with "great is the Lord . . . and His greatness" and closes with "and I will tell of Thy greatness"; II commences with "Thy great goodness" and concludes with "the Lord is good to all"; and III begins with "the glory of Thy kingdom" and

ends with "Thy kingdom is a kingdom for all ages," the word "kingdom" being followed by its synonym "dominion."

Moreover, taken as a group, units I and II, the Interlude, and unit III are likewise knit together by the device of opening and closing with the same word. For, exclusive of vs. 3 whose purpose it is to establish a link between it and the end of unit I, the entire group of units under consideration commences with *דור לדור* (vs. 4a) and concludes with *דור דור* (vs. 13b).

A number of the recurring words are contained in anadiplosis. This rhetorical figure is represented in the following: in the Prelude: "and I will bless Thy name for ever and ever" — "every day will I bless Thee"; in the transition from the Prelude to unit I: "and I will praise" — "highly to be praised"; in the transition from II to the Interlude: "over all His works" — "all Thy works"; in III: "Thy might" — "His mighty acts"; and again in III: "and the glory of the majesty of His kingdom" — "Thy kingdom is a kingdom."

Recourse to key words does not, as has already been observed in the analysis of Psalm 34, exclude the employment of synonyms. In the Psalm before us, the synonyms for "blessing" and "utterance" are especially striking. In the Prelude appear "extol" and "praise"; in unit I, "laud," "declare," "rehearse," "speak," and "tell"; in II, "pour forth" and "sing"; in the Interlude, "praise" (*יירוך*); and in III, "speak," "talk," and "make known."

In the verbs of unit I there is alternation between the first and third persons. After the four verbs in the Prelude, all in the singular, unit I exhibits the following alternation: *ישבח*, *יגידו*, *אשיחה*, *יאמרו*, and *אספרנה*. By this process the thought that all might come to share the poet's appreciation of God is made effective and emphatic. Not until the Postlude does the Psalmist revert to speaking in the first person.

Having demonstrated that from the standpoint of the key words used, each of the parts up to and including unit III is structurally a separate entity, we shall now indicate that each of these divisions is a thought-unit as well. In the Prelude the poet expresses his purpose to bless the Lord continually. In passing, it may be noted that in order to leave no doubt that to bless the Lord is to praise him, *ואברכה שמך* in vs. 1 is equated with *ואהללה שמך לעולם ועד* in vs. 2.

Unit I specifies what praise of God consists of. First and foremost it means an appreciation of his greatness. That this was intended to be the theme of this unit is evident from the threefold mention of "great(ness)" in vss. 3 and 6. God's greatness is revealed in his works (vs. 4); in his mighty acts (*ibid.*); in the splendor of his majesty (vs. 5); in his wondrous works (*ibid.*); and in the might of his awe-inspiring

acts (vs. 6). The Psalmist, to be sure, is fully cognizant of all these manifestations of divine greatness. But it is his most ardent desire that others might share his own deep appreciation of the greatness of God.

From the theme of God's greatness the Psalmist, in II, turns to a contemplation of the two phases of his nature: his justice or righteousness, on the one hand, and his goodness and mercy, on the other.<sup>11</sup> That the second of these divine attributes is accentuated is obvious from the twofold mention of God's goodness (vss. 7, 9) and the twofold reference to his compassion (vss. 8, 9). The sentiment which the Psalmist voices is that others might be appreciative of God's goodness and mercy.

By "others" the poet, in accordance with the Interlude, has in mind all whom God has made, and especially his saints. Implicit in the anadiplosis in vss. 9-10, which marks the transition from II to the Interlude, is the thought that in view of God's goodness and compassion to all, it is proper that all should sense the urge to praise him.

Suggested in the first instance by the appellative "king" for God in the Prelude (vs. 1), the fourfold reiteration of "kingdom" in III determines the primary theme of this unit, which is, the kingdom of God. Ideologically, this theme derives from II. For the kingdom of God (III) is a form of divine government that is based on the principles of justice and mercy (II). Furthermore, mankind's awareness of the prevalence of divine justice and mercy (II) will ultimately lead to a world-wide recognition of the kingdom of God on earth (III). A secondary theme in III, suggested by *וּבְוִדְהִיךְ* in vs. 4 of unit I, is that of God's might, which is twice associated with his kingdom (vss. 11, 12). Presumably the underlying thought is that a wide-spread realization of the existence of the kingdom of God will reflect, or vindicate, the power of God in the universe.

The basic themes dealt with thus far have been the concrete evidences of God's greatness (I), his exercise of goodness and compassion (II), and the reality of his kingdom and power in the world (III). The key to an understanding of the role played by the seven verses which comprise IV in the structure of our Psalm is to be found in the middle verse of the unit, namely, vs. 17. The latter points to the direct dependence of IV upon II. Thus *צָדִיק* in IV (vs. 17) reverts to *וְצִדְקָתְךָ* in II (vs. 7); and *וַחֲסִיד* in IV (vs. 17), to *וְגִדְלִי-חֲסִיד* in II (vs. 8). The one key word, *כָּל*, which IV contains no less than eight times

<sup>11</sup> Cf. G. F. Moore, *Judaism*, vol. I (Cambridge 1927), p. 387: "These attributes . . . run through the Bible like a cord of two colors intertwined."

with reference to human beings, is traceable to vss. 9-10, where the former verse marks the transition from II to the Interlude.

The central position of vs. 17 and the key word כָּל in IV enable us to view the contents of this unit from the standpoint of the Psalmist. His conscious aim in IV was unquestionably to elaborate upon the theme in II by adducing a number of illustrations of the two elements in God's nature, which are, his all-encompassing love and justice. Illustrative of the first of these attributes are God's support of the falling and of those who are bowed down (vs. 14); the supply of food to his creatures (vss. 15-16); his nearness to those who call to him in sincerity (vs. 18); his responsiveness to the requests and pleas of his worshippers (vs. 19); and his protection to those who love him (vs. 20a). The second attribute, that of justice, is implicit in the statement at the end of the unit (vs. 20b) that God destroys all the wicked.

With the continuous repetition of כָּל in IV our Psalm attains to the very pinnacle of universalism. For, the acts of God's love and justice enumerated in the unit are made manifest to all mankind.

For all that God is and for all that he does the Psalmist constantly utters his praises. Would that "all flesh" might be inspired by his example to rehearse the praises of God continually! This is the burden of the Postlude.

#### ADDENDUM TO NOTE 7

R. G. Moulton, *The Literary Study of the Bible* (Boston 1896) and E. Z. Melamed, *Tarbiz*, vol. 20 (1949) have independently observed the stylistic device of employing the same word(s) at the beginning and the end of a Psalm. The former, *op. cit.*, p. 53, describes it as "the Envelope Figure, by which a series of parallel lines running to any length are enclosed between an identical (or equivalent) opening and close." The latter, *op. cit.*, p. 23, notes that one of the external characteristics of many Psalms is the verbal similarity between their opening and closing.

By way of illustration Moulton adduces three of the Psalms registered in Note 7, namely, Pss. 8, 103, and 104. With respect to the first of these he states (*op. cit.*, p. 70): "The whole of this poem makes a single envelope figure." Cf. *op. cit.*, p. 53, note 2. And on Pss. 103 and 104 he comments (*op. cit.*, p. 150 bottom): "these poems (are) united by their structure — the common enveloping refrain, 'Bless the Lord, O my soul.'"

Melamed (*op. cit.*, p. 23, note 87) cites only Ps. 139 as an illustration. Of this Psalm, Moulton (*op. cit.*, p. 77) writes as follows: "This exquisite lyric is in structure a very extended form of the envelope figure. But the opening verse, when it appears

at the close, has undergone an important change: for the indicative mood of the opening —

O Lord, thou hast searched me —

we have at the end the imperative mood —

Search me, O God —

and the whole movement of the poem is to lead from the one state of mind to the other."

Ps. 139 was not registered in Note 7, because that Note restricted itself to instances where a verbal link is established between the first and last verses of a Psalm. If, however, we broaden the meaning of "opening" and "closing" of a Psalm to include the first four or five verses and the last four or five verses respectively, the number of Psalms belonging to the category under consideration is substantially augmented.

The following Psalms, in addition to Ps. 139, exhibit the phenomenon in question:

- 3: [אֵין] יְשׁוּעָתָה [לֹו בָאֱלֹהִים] vs. 2, קוֹמָה [יְהוָה], 8; and [רַבִּים] קָמִים [עָלַי] vs. 3, [לִיהוָה] הַיּוֹשֻׁעַ vs. 9.
- 6: [וַיְבַהֲלוּ] [מֵאֵד כָּל אִיבִי], 3-4, vss. 3-4, [וַנִּפְשֵׁי] [נִבְהַלָה] [מֵאֵד] vs. 11.
- 9: [וַיִּשְׁפְּטוּ] [גּוֹיִם], 5, [עֲשִׂיתָ] [מִשְׁפָּטִי] . . . שׁוֹפֵט [צִדִּיק] vs. 20.
- 10: [תִּהְיֶה] [עֲנִיִּים שִׁמְעָה], 3, [הִלַּל רָשָׁע עַל] [תִּהְיֶה] [נִפְשׁוֹ] vs. 17.
- 11: [יִמְטֵר עַל] [רָשָׁעִים] [פָּחִים], 2, [וְיִרְכֹּסוּ] [קֶשֶׁת] vs. 11.
- 11: [וּמִן] [מִנְדַּל] יְשׁוּעוֹת, 3, [וְיִקְרָן] יֵשַׁעִי vs. 49; [מִפְּלָטִי] vs. 3, [וּמִפְּלָטִי] vs. 18.
- 25: [אֵל] אֲבוֹשׁ vs. 2, [אֵל] אֲבוֹשָׁה vs. 20; [שִׁמְרָה] נִפְשִׁי, 1, [אֵשׁ] vs. 25; [קוֹיִךְ] vs. 20, and [אֵל] אֲבוֹשׁ vs. 20; [קוֹיִתִּיךְ] vs. 21.
- 26: [וְאֵנִי] [בְּחַמִּי] [אֵלֶךְ], 1, vs. 11, [אֵנִי] [בְּחַמִּי] [הִלַּכְתִּי] vs. 12.
- 30: [וְהִתְרַחֵם] [שִׁמְחָה], 12, [וְהִתְרַחֵם] [שִׁמְחָה] [אִיבִי] [לִי] vs. 13, [וְהִתְרַחֵם] [שִׁמְחָה] [אִיבִי] [לִי] vs. 13.
- 33: [יְהִי] [חֶסֶד] [יְהוָה] [עָלֵינוּ], 5, [חֶסֶד] [יְהוָה] [מִלֵּאָה] [הָאָרֶץ] vs. 22.
- 35: [יִבְשׁוּ] [וַיִּחְפְּרוּ] . . . [יִבְשׁוּ] [וְכִלְמָה] vs. 4, [יִבְשׁוּ] [וְכִלְמָה] . . . [וַיִּחְפְּרוּ] vs. 26.
- 36: [רָשָׁעִים] vs. 12, [לְרָשָׁע] vs. 12.
- 41: [וְאֵל] [תִּתְּנֵה] [בְּנִפְשׁ] [אִיבִי] vs. 3, [כִּי] [לֹא] [יִרְעֶה] [אִיבִי] [עָלַי] vs. 12; and [וְהִתְרַחֵם] [שִׁמְחָה] [אִיבִי] [לִי] vs. 12.
- 47: [מֶלֶךְ] [אֱלֹהִים] [עַל] [גּוֹיִם] vs. 9, [מֶלֶךְ] [כָּל] [הָאָרֶץ] vs. 8, [מֶלֶךְ] [כָּל] [הָאָרֶץ] vs. 3, [נִדּוּל] [עַל] [כָּל] [הָאָרֶץ] vs. 9.
- 50: [זִבַּח] [תּוֹדָה] [יִכְבְּדֵנִי], 5, [כִּרְתִּי] [בְּרִיתִי] [עָלַי] [זִבַּח] vs. 23.
- 55: [לֹא] [יִתֵּן] [לְעוֹלָם] [מוֹט] [לְצִדִּיק], 4, [יִמְיָטוּ] [עָלַי] [אֲנִי] vs. 23.
- 56: [אֵנִי] [אֲבִטָּח] [בָּאֱלֹהִים] [אֶהְלֵל] [דְּבַר] [בָּאֱלֹהִים] [בְּמַחְתִּי] [לֹא] [אִירָא] [מֶה] [יַעֲשֶׂה] [בְּשַׁר] [לִי] vs. 4-5, [אֵנִי] [אֲבִטָּח] [בָּאֱלֹהִים] [אֶהְלֵל] [דְּבַר] [בָּיְהוָה] [אֶהְלֵל] [דְּבַר] [בָּאֱלֹהִים] [בְּמַחְתִּי] [לֹא] [אִירָא] [מֶה] [יַעֲשֶׂה] [אֵדִם] [לִי] vs. 11-12.
- 57: [כִּי] [גִּדַּל] [עַד] [שָׁמַיִם] [חֶסֶד] [וְעַד] [שְׁחָקִים], 4, [שִׁלַּח] [אֱלֹהִים] [חֲסָדוֹ] [וְאִמְתּוֹ] vs. 57.
- 57: [כִּי] [גִּדַּל] [עַד] [שָׁמַיִם] [חֶסֶד] [וְעַד] [שְׁחָקִים], 4, [שִׁלַּח] [אֱלֹהִים] [חֲסָדוֹ] [וְאִמְתּוֹ] vs. 57.
- 60: [אֱלֹהִים] [וְנִחַנְנוּ] vss. 3, 12.
- 62: [כִּי] [אֵת] [תְּשַׁלֵּם] [לְאִישׁ] [כְּמַעֲשָׁהוּ], 4, [עַד] [אֵת] [תְּהוֹתָהוּ] [עַל] [אִישׁ] vs. 13.
- 64: [וַיִּרְאֵם] . . . [חָץ] [פָּתְאוֹם] . . . [לְשׁוֹנִם] vss. 4-5, [לְשׁוֹנִם] [דְּרֹכָם] [חָצִם] . . . [פָּתְאוֹם] [יְרֵחוֹ] vs. 8-9.
- 69: [וַיִּשְׁעֵנִי] [אֱלֹהִים] vs. 2, [וַיִּשְׁעֵנִי] [יֵשׁוּעַ] vs. 36.
- 74: [אֵל] [חֲשַׁכַּת] [קוֹל] [צִדִּיק], 4, [שָׁאֲנוּ] [צוֹרֵרִיךְ] vs. 23.
- 75: [וְכָל] [קִרְנֵי] [רָשָׁעִים] [אֲנֹדֵעַ] [תְּרוֹמֶמְנָה] [קִרְנוֹת] [צִדִּיק], 5, [וְלִרְשָׁעִים] [אֵל] [תְּרִימוֹ] [קֶרֶן] vs. 11.
- 79: [וַיִּשְׁבַּח] [לְשִׁכְנוֹנוֹ] . . . [חֲרַפְתָּם] [אֲשֶׁר] [חֲרַפּוּ], 4, [הִינֵנוּ] [חֲרַפָּה] [לְשִׁכְנוֹנוֹ] vs. 12.
- 80: [יְהוָה] [אֱלֹהִים] [צְבָאוֹת] [הַשִּׁיבֵנוּ] [הָאֵר] [פִּנֵּיךְ] [וְנוֹשְׁעָה] vs. 4, [אֱלֹהִים] [הַשִּׁיבֵנוּ] [וְדָר] [פִּנֵּיךְ] [וְנוֹשְׁעָה] vs. 80.
- 84: [יְהוָה] [צְבָאוֹת] vss. 2, 4, 13.
- 85: [וְאֲרָצֵנוּ] [תִּתֵּן] [יְבוּלָה], 2, [רָצִיתָ] [יְהוָה] [אֲרָצֵנוּ] vs. 13.



- 86: [תנה עונך] לעבדך והושיעה [לבן אמתך] vs. 2, [הושע עבדך] vs. 16.  
 89: [נשבעת לדוד] באמונתך vs. 2, [אודיע] אמונתך vs. 50.  
 92: [להגיד] כי ישר יהוה vs. 3, [בבקר חסדך] vs. 16.  
 98: [בא לשפט] הארץ vs. 3, [ראו כל אפסי] ארץ vs. 9.  
 99: [קדוש] יהוה אלהינו vs. 3 and 5, [קדוש] הוא vs. 9.  
 101: [בדרך] חמים vs. 2, [אתה] בך vs. 2, [לבבי] vs. 6; [בדרך] חמים vs. 2, 7; and [לנגד עיני] vs. 3, 7.  
 109: [אהללנו] vs. 1, [אלהי] חלהתי vs. 30.  
 111: [תהלתו] עמדת לעד vs. 3, [וצדקתו] עמדת לעד vs. 10.  
 112: [צדקתו] עמדת לעד vs. 3, [וצדקתו] עמדת לעד vs. 9.  
 114: [אלוה] יעקב vs. 1, [בית] יעקב vs. 7.  
 116: [ובשם] יהוה אקרא vs. 4, 13, 17; [אקרא] vs. 2, 17.  
 121: [ישמר] vs. 3, [שמך] vs. 8.  
 126: [בא יבא] ברנה vs. 2, [ולשוננו] רנה vs. 6.  
 130: [והוא יפדה את ישראל מכל] עונותיו vs. 3, [אם] עונות [תשמר ית] vs. 8.  
 132: [אצמיח קרן] לדוד vs. 1, [זכור יהוה] לדוד vs. 17.  
 138: [יהוה] חסדך [לעולם] vs. 2, [ואודה את שמך על] חסדך vs. 8.  
 139: [דרכי] רכבי [הסכנתה] and [דרכי] חקרני [אל] דע [לבבי] vs. 1, [יהוה] חקרתי וחדע vs. 24; [אם] דרך [עצב בי נוחני] בדרך [עולם] vs. 3, 24.  
 141: [פעלי] און vs. 4, 9.  
 143: [בצדקתך] [תוציא מצרה נפשי] vs. 1, [עוני] בצדקתך vs. 11; [כי לא יצדק לפניך כל] חי vs. 12; [כי אני] עבדך vs. 2, [למען שמך יהוה] חתיני vs. 2, [ובחסדך תצמיח] איבי vs. 3, [כי רדף] אויב [נפשי] and vs. 11; [שמים] vs. 1 and 4, [שמים] vs. 13.  
 148: [שמים] vs. 1 and 4, [שמים] vs. 13.

The above list, together with the twenty seven Psalms registered in Note 7, reveals the fact that half of the Book of Psalms utilizes, to use Moulton's designation, the "Envelope Figure."

Both Moulton (*op. cit.*, pp. 427-8) and Melamed (*op. cit.*, p. 23, note 87) adduce one example each of the occurrence of this phenomenon in prophetic literature as well. In a paper which is to appear in the October issue of *JQR*, 47 [1956] the writer will deal with this stylistic device in the Book of Isaiah.

# THE TREATMENT OF ANTHROPOMORPHISMS AND ANTHROPOPATHISMS IN THE SEPTUAGINT OF ISAIAH\*

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## A

1. While preparing an analysis of הוּא צָנָה/ὅτι κύριος ἐνετείλατο αὐτοῖς in Isa. 34.16 for my "Studies in the St. Mark's Isaiah Scroll, VI" (this *Annual*, 25 [1954], 85 ff.) I found it necessary to determine the attitude that the Septuagint translator<sup>1</sup> of Isaiah displayed towards the anthropomorphisms and anthropopathisms that he found in his Hebrew text. The present article is the result of the study.

2. It should be stated at the very outset that the few studies that have been made recently of this aspect of Bible translation do not indicate that their authors attacked the problem objectively. Whether they were conscious of it or not, they started out with the notion that the physical and other human attributes of God as described in the text of the Hebrew Bible were repulsive to the Septuagint translators. Consequently, they tended to overlook the many passages in the Septuagint where the "hand" or "foot" or "anger" of God was reproduced literally in the Septuagint, and attributed anti-anthropomorphic tendencies to the translator in the one or two passages where these words were not reproduced literally. In short, the methodology was faulty, and the conclusions invalid and misleading.

\*I have employed the following abbreviations: MT for Masoretic Text (any printed edition); LXX for the Septuagint, J. Ziegler's model edition of *Isaias* (1939) in the Göttingen series; JPS for the Jewish Publication Society Translation of the Hebrew Bible (1917); RSV for the Revised Standard Version of the Holy Bible (1952); Schleusner for his *Novus Thesaurus Philologico-Criticus . . . Veteris Testamenti*, 5 vols. (Lipsiae, 1820).

<sup>1</sup> On the possibility of a separate translator for Chapters 36-39, see the latter part of §7 below. J. Ziegler, "Einleitung," pp. 95 ff., saw no reason to suspect more than one translator for the entire Book.

3. In 1943 C. T. Fritsch published his doctoral dissertation on *The Anti-Anthropomorphisms of the Greek Pentateuch*. In general, not many scholars made direct study of the author's data and methodology, and some of them tended to accept the conclusions of this work uncritically.<sup>2</sup> In my somewhat detailed review of this work (in *Crozer Quarterly*, 21 [1944], 156-160<sup>3</sup>), I attempted to demonstrate how Fritsch "allowed himself, quite without realizing it of course, to be misled by his predecessors into accepting as a premise what he should first have demonstrated to be a true proposition; namely, he should have proved that we are really dealing with anti-anthropomorphisms, etc., before assembling, classifying, and discussing them as such. As a matter of fact, the reviewer is now convinced more than ever, as a result of Dr. Fritsch's collection of the data, that what have been regarded by virtually everyone as instances of an anti-anthropomorphic attitude on the part of the Septuagint translators are the result of nothing more tendentious than mere stylism, with theology and philosophy playing no direct role whatever in the matter . . ." (*op. cit.*, pp. 156-7). Thus Fritsch made nothing of the fact that the LXX translated the "face" of God literally 18 (!) times in the Pentateuch, and proceeded to create an anti-anthropomorphic fiction out of one (!) instance of this phenomenon — and an alleged one at that (*ibid*). My criticisms dealt also with the "eyes," "wrath," "mouth" and "hand" of God, the pronominal suffix "His," and several alleged anti-anthropomorphisms.<sup>4</sup>

<sup>2</sup> E. g., I. Soisalon-Soininen, *Die Textformen der Septuaginta-Übersetzung des Richterbuches* (Helsinki, 1951), pp. 83-4; R. Loewe, "Jerome's Treatment of an Anthropomorphism," *Vetus Testamentum*, 2 (1952), 262 n. 2. J. Reider's review (*JBL* 63 [1944] 203-5) asserted that "As to the numerous cases of anti-anthropomorphism listed in the book, not all of them can be accepted as such without demur . . . The author's judgment may be challenged also on other points . . ."

<sup>3</sup> Cf. also §1 on pp. 32-3 of my article on "The Septuagint — its Use in Textual Criticism" (*Biblical Archaeologist*, 9 [May 1946]).

<sup>4</sup> The lack of methodology is apparent also in such works as J. Wevers' article on "Exegetical Principles Underlying the Septuagint Text of 1 Kings ii 12 — xxi 43" (*Oudtestamentische Studiën*, 8 [1950], 318), and the article by Loewe cited in n. 2 preceding. A particularly glaring case in point is D. H. Gard's interpretation of *The Exegetical Method of the Greek Translator of the Book of Job* (JBL Monograph Series, Vol. VIII, 1952); cf. my review in *JBL*, 73 (1954), 251-3; and that by G. Zuntz in *L'Antiquité Classique*, 22 (1953), 538-41. In his descriptive listing of "Septuaginta-Forschungen," § II. Die Septuaginta als Übersetzungsurkunde (*Theologische Rundschau*, 22 [1954], 171 ff.), J. W. Wevers is less than objective in his treatment of the works by Fritsch and Gard (174-5, 187-90), colleagues of his at Princeton Theological Seminary. Cf. A. Soffer's Critical Note on "'The House of God/Lord' in the Septuagint of the Pentateuch," *JBL*, 75 (June, 1956).

4. My conclusion that "What is involved is not theology, but stylism and intelligibility" holds good not only for the Pentateuchal material but also for the Septuagint of Job (*op. cit.*, 159-160), and now also for the Septuagint of Isaiah, as will be indicated below. In addition, my student Arthur Soffer is completing for his Master of Hebrew Letters thesis a detailed study of the treatment of anthropomorphisms and anthropopathisms in the Septuagint of Psalms, and the data have led him to the identical conclusion.

## B

5. The "hand" (יד) of God occurs 38 times in the Hebrew text of Isaiah. It is reproduced in the Septuagint literally (ἡ χεῖρ) on all but 2 occasions: 1.25; 5.13, 25 (*bis*); 8.11; 9.11, 16, 20; 10.4; 11.11, 15; 14.26, 27; 19.16; 23.11; 29.23; 31.3; 34.17; 40.2; 41.20; 43.13; 45.11, 12; 48.13; 49.2, 22; 50.2; 51.16, 17; 59.1; 60.21 (ἐργα χειρῶν αὐτοῦ for masoretic מַעֲשֵׂה יָדַי); 62.3; 64.7; 65.2; 66.2, 14.

In 25.10 (וְיָדוֹ בְּהַר הַזֶּה / כִּי יִתְנוּ אֲנָשִׁים אֲנָשִׁים / ὅτι ἀνάπυσιν ὁ θεὸς ἐπὶ τὸ ὄρος τοῦτο) and 50.11 (מִיָּדִי הִתְיַצָּח לָכֵם / δὲ' ἐμὲ ἐγένετο ταῦτα ὑμῶν) the translator rendered freely in accordance with the context. On the other hand, in 40.12 our translator did not hesitate to reproduce (מִיָּמִינוֹ בְּשַׁעֲלוֹ) by τῇ χειρὶ.<sup>5</sup>

6. The "right hand" (יְמִין) of the Lord is reproduced literally (ἡ δεξιὰ) in all 3 occurrences: 40.10; 48.13; 62.8.<sup>7</sup>

7. The "ear" of God (אָזן) was rendered literally (τὸ οὖς) in 5.9; 22.14; 59.1; note that in the first two instances the masoretic text reads not בְּאָזְנִי but יְהוָה צְבָאוֹת (יהוה צבאות) / εἰς τὰ ὦτα (or, τοῖς ὠσὶ) κυ-

<sup>5</sup> I may note here that the complete Isaiah Scroll (formerly St. Mark's, and now in Jerusalem, Israel. See the accounts by M. Jacobs [in *American Jewish Congress Weekly*, April 25, 1955, pp. 7-10] and G. Svet [in the *American Hebrew* weekly *Ha-Doar*, Feb. 25, 1955, pp. 2-3]) reads here: מַטְעִי [not מַטְעוֹ as transcribed in the ASOR edition] יהוה מעשי ידיו. This is not the place to discuss אὐτοῦ (or commonly emended מַטְעִי יהוה for masoretic Kethib מַטְעוֹ Qere מַטְעִי). On some of the variant readings in this Scroll in relation to the LXX, see my *Studies I-VII*, listed in this *Annual*, 25 (1954), n.\*.

<sup>6</sup> In discussing this verse in relation to the variant reading in the Scroll (*Annual*, 25 [1954], 90-92), Prof. H. G. May of Oberlin reminded me that masoretic מִיָּמִינוֹ, as against the Scroll's מִיָּמִינוֹ, was proved original also by the Creation Story in Gen. 1, where, exactly as in our own verse, it is מִיָּמִינוֹ (not מִיָּמִינוֹ!), שָׁמַיִם and אֲרֶצֶם that were involved.

<sup>7</sup> I follow Rahlfs and Ziegler in regarding δόξης as but a corruption of δεξιᾶς; Schleusner, on the other hand, prefers δόξης, cf. s. δόξα (also s. δόξα for תְּהִלָּה).





48.14 masoretic (פְּשָׁדִים) וְרָעָה was read רָעָה in the Septuagint (τοῦ ἄραι σπέρμα χαλδαίων).

13. The "inward parts; compassion" (מַצֵּי) of the Lord was translated correctly, if not etymologically, in 63.15, (אִיָּה קִנְיָהּ וְגִבּוֹרֶתֶּיהָ) אִיָּה קִנְיָהּ / ποῦ ἐστὶ τὸ πλῆθος τοῦ ἐλέους σου καὶ οἰκτιρμῶν σου. Compare the rendering in JPS and RSV, "the yearning of Thy heart."

14. The "face" (פָּנִים) of God was reproduced literally (τὸ πρόσωπον) in 5 instances: 8.17; 19.1; 59.2; 64.1, 6. In v. 2 (and 63.19. See the editions of Rahlfs and Ziegler on the Greek text; the clause seems to have originated here by vertical dittography in the Hebrew text), unlike v. 1 preceding and v. 6 following, פָּנִים was rendered ἀπὸ σοῦ. This is either a free, even if correct rendering, or else may derive from a corruption of original ἀπὸ προσώπου σου. In 57.17 פָּנֶה was spelled out anthropomorphically in the Septuagint: καὶ ἀπέστρεψα τὸ πρόσωπόν μου.

15. The "eye" (עֵין) of the Lord was rendered faithfully (ὁ ὀφθαλμός) in two passages (1.15, 16), and less literally, although not less correctly, in five other instances<sup>11</sup>: 43.4 (בְּעֵינִי יִקְרָה מַשְׁחָרָא / ὁ ἔντιμος ἐγένου ἐναντίον μου. Note ἡ κεφαλὴ for שֵׁף in this same verse, and ἡ χεִיר for יָד in v. 13); 49.5 (בְּעֵינִי יִהְיֶה / καὶ δοξασθήσονται ἐναντίον κυρίου. Note ἡ χεִיר for יָד in v. 2); 59.15 (וַיִּרְעַב בְּעֵינִי / καὶ οὐκ ἤρεσεν. Note τῷ βραχίονι αὐτοῦ for יָד in v. 16); 65.12 (וַיַּעַשׂוּ הָרַע בְּעֵינִי / καὶ ἐποίησατε τὸ πονηρὸν ἐναντίον ἐμοῦ); 66.4 (וַיַּעַשׂוּ הָרַע בְּעֵינִי / καὶ ἐποίησαν τὸ πονηρὸν ἐναντίον μου. Note פִּי in verse 1, and χεִיר / יָד in verse 2). In 37.17 (וְהָיָה יְהוָה אֱלֹהֵינוּ וְשָׁמַעוּ פִּקְחִים) / εἰσβλεψον, κύριε and 38.13 (וְהָיָה בְּעֵינֵיךָ עֲשִׂיתִי) / καὶ τὰ ἀρεστὰ ἐνωπίων σου ἐποίησα there is the possibility of anti-anthropomorphism having been at work; see above §7 on אֵין. In 2.11 (לִפְנֵי יְהוָה) was rendered οἱ γὰρ ὀφθαλμοὶ κυρίου (ὕψηλοί, ὁ δὲ ἄνθρωπος ταπεινός . . .).

16. The "heart" (לֵב) of God is found but once in Isaiah (63.14): «אִיָּה קִנְיָהּ וְגִבּוֹרֶתֶּיהָ» (הַיּוֹם יוֹם נִקְמָה) / (ἡμέρα γὰρ ἀνταποδόσεως) ἐπῆλθον αὐτοῖς (καὶ ἐνιαντὸς λυτρώσεως πάρεστι). That the anthropomorphic element played no role at all here is evident enough (1) from the picture as a whole, (2) from the literal renderings of אֵף, אֵקָה, and רָעָה in our very section (verses 3–6), and (3) from the fact that לב could readily have been rendered by some such term as διάνοια (a

<sup>11</sup> Cf. my comments on בְּעֵינִי and לִפְנֵי, in association with both God and man, in *Crozer Quarterly*, 21 (1944), 158.

common term for לב; see E. Hatch, *Essays in Biblical Greek* [Oxford, 1889], pp. 102–3, §IV), the term used for God's "thoughts, plans" in 55.9 (see §17 following). It seems to me that ἐπὶ ἡλθον αὐτοῖς is merely a paraphrase of בְּלִבִּי<sup>12</sup> — incidentally, not a bad one in the context (parallel to חָשַׁב/πάρεστι), rather than the rendering of a Hebrew verbal form that is nearer to the original than preserved בלבי.

17. The "thoughts, plans" (מַחְשְׁבָה) of the Lord are treated in the LXX in the same manner as those of man. In 55.8 כִּי לֹא מַחְשְׁבוֹתֵי מַחְשְׁבוֹתֶיךָ was rendered οὐ γὰρ εἰσιν αἱ βουλαὶ μου ὥσπερ αἱ βουλαὶ ὑμῶν; and in verse 9 מִמַּחְשְׁבֶיךָ בֶּן נָבוֹה . . . was translated οὕτως ἀπέχει . . . καὶ τὰ διανοήματα ὑμῶν ἀπὸ τῆς διανοίας μου.

18. The "anger" (אַף) of God was reproduced literally (ὁ θυμός, ἡ ὀργή) in nearly every instance: 5.25 (*bis*); 9.11, 16, 20; 10.4, 5, 25; 12.1; 13.3, 9, 13; 14.6; 30.27, 30; 42.25; 48.9; 63.6; 65.5; 66.15; and cf. 12.1 בִּי אַנְפֹּת/ὠργίσθης μοι.

19. As with אַף, so with its synonym חָמָה a literal translation (θυμός, ὀργή) was employed virtually throughout: 34.2; 42.25 (see my discussion of אַפּוֹ חָמָה in *Journal of Jewish Studies*, 2 [1951], 151–4); 51.17, 20, 22; 63.3 (see below), 6; 66.15. In 27.4 חָמָה was read חָמָה in the LXX (τὸ τεῖχος); in 59.18 ὀνειδος was employed (cf. ὀνειδισμός/חרון in Jer. 12.13, and see Schleusner, s. vv.); in 63.3 ὡς γῆν for בְּחָמָה is in all probability only a corruption of some form of ὀργη (parallel to בְּאַפִּי/ἐν θυμῷ), brought on perhaps by γῆν at the end of the verse, which, in turn, apparently derived (erroneously?) from the end of verse 6; in 63.6 the entire clause וְאַשְׁכַּרְםָּ בְּחָמָה (parallel to וְאִבּוֹס עַמִּים וְאַפִּי/κατεπάτησα αὐτοὺς τῇ ὀργῇ μου) is lacking in the LXX, probably accidentally.

20. Still another term for "wrath," חָרוֹן, is combined twice with אַף (אֶף חָרוֹן) and rendered literally by ὀργή (13.9) and θυμός (13.13). In translating the verbal form, the LXX expressed itself even more anthropomorphically than the Hebrew (v. 25): אֶף-יְהוָה/καὶ ἔθυμώθη ὀργῇ κύριος σαβαωθ.

21. Another synonym, נָעַם, was reproduced faithfully (ὀργή) in 10.5, 25; 30.27. On נָעַם וְלִי יְהוָה in 13.5 Gray (*ICC on Isaiah*) comments,

<sup>12</sup> The same verb, ἐπέρχομαι, was added neatly elsewhere in the LXX of Isaiah, e. g., in 13.13: אֶפּוֹ חָרוֹן אֶפּוֹ וּבְיוֹם צָבָאוֹת (יהוה צבאות) / (διὰ θυμὸν ὀργῆς κυρίου σαβαωθ) τῇ ἡμέρᾳ ἣ ἂν ἐπέλθῃ ὁ θυμὸς αὐτοῦ.

“*The instruments of his indignation*] Jer 50<sup>25</sup>; cp. ‘instruments of war’ as applied to Saul and Jonathan, 2 S 1<sup>27</sup>”; he might have noted in this very connection the appropriate rendering of our phrase in the LXX (cf. Schleusner, s. *ὄπλομάχος*, “Sensum expresserunt”), *κύριος καὶ οἱ ὄπλομάχοι αὐτοῦ* (used also for *קִרְבָּנִים* [כִּרְבָּא] in verse 4 preceding). In 66.14 the LXX rendered the verbal form *יְהוָה יִרְדֵּף עַד יְנוּדָעָהוּ* (אֶת־יְהוָה עַד־יְנוּדָעָהוּ) effectively (*καὶ γνωσθήσεται ἡ χεὶρ κυρίου τοῖς σεβομένοις αὐτόν*) *καὶ ἀπειλήσει* (*τοῖς ἐπειθοῦσιν*).

22. Such other synonyms as *עָרִי* (30.30) and *חָצֵק* (34.2; 54.8; 60.10) were likewise reproduced literally (*θυμός*, *ὀργή*). The same holds true for the verbal forms (*λυπέω*, *ὀργίζομαι*): 47.6; 54.9; 57.16, 17 (*bis*); 64.4, 8.

23. The *עָרִי* (“wrath, fury”) of God was translated literally (*θυμός*; or *θυμός ὀργῆς*) in all 5 instances: 9.18; 10.6; 13.9, 13; 14.6.

24. The “rebuke” (*עָרִי*) of the Lord was reproduced faithfully (*ἡ ἀπειλή*) in 50.2 (the same term used in 54.9). In 51.20 the same word (*ἐκλύω*) was used for *נָעַר* as for the synonym *חָצֵק* in I Kings 20 (21).43: *אֶת־הָעָרִי (אֶת־הַחָצֵק) הַמִּלְאִים הַמִּתְיָהוּם (οἱ πλήρεις θυμοῦ κυρίου) ἐκλελυμένοι (διὰ κυρίου τοῦ θεοῦ)*.<sup>13</sup> In 17.13 *נָעַר* (בֹּ) was reproduced by *καὶ ἀποσκορακיעὶ (αὐτόν)*, and in 66.15 *נָעַר* was rendered *ἀποσκορακισμός* (parallel to *אֶת־הַחָצֵק / ἐν θυμῷ ἐκδίκησιν*).

25. Many translators have left open the direct antecedent of *הַיּוֹם אֶת־יְהוָה* in 13.9, whether it be “day” or “Lord”; the LXX did not hesitate to construe the Lord as the antecedent (*ἰδού γὰρ ἡμέρα κυρίου ἀνίατος*).

26. Attention might be drawn readily to a number of other instances where crassly anthropomorphic figures in the Hebrew were retained in the LXX; two cases in point will suffice here. In 6.5 *כִּי אֶת־הַקֶּלֶךְ יְהוָה רָאוּ עֵינַי* was reproduced literally, *καὶ τὸν βασιλέα κύριον σαβωθ*

<sup>13</sup> In view of the fact that *ἀπειλή* is used both for *עָרִי* (as in our 50.2; Prov. 13.8; etc.) and *חָצֵק* (e. g., Prov. 19.12), and since *ἐκλύω* is employed both for *נָעַר* (as in our 51.20) and *חָצֵק* (I Kings 20.43; see Schleusner, s. *ἐκλύω*, against proposed *עָרִי*), there is insufficient reason for assuming *נָעַר* for *נָעַר* in our 51.20 as the *Vorlage* of *ἐκλύω*, or an inner-LXX corruption in *ἐκλελυμένοι*. In addition, *ἐκλύω* was not employed by the LXX translator of Isaiah for either *נָעַר* or *חָצֵק*. In Isa. 44.13 Schleusner (s. *ἐκλέγομαι*), following Doederlein, would emend *ἐκλεξάμενος* (for *חָצֵק*) into *ἐκλυόμενος* (cf. Ziegler, note at 44.13); but *ἐκλύω* for *חָצֵק* is foreign to the LXX of Isaiah.

εἶδον τοῖς ὀφθαλμοῖς μου. In 19.1 וְכָא מַצְרַיִם קל על-עב רכב יהוה יהוה was similarly reproduced: Ἴδον κύριος κάθεται (= רכב also in Lev. 15.9) ἐπὶ νεφέλης κούφης καὶ ἦξει εἰς Αἴγυπτον.

**27.** Our conclusions for the LXX translator of Isaiah (Chaps. 36–39 require separate study; see above §7) is precisely the same as for the LXX translators of the Pentateuch and of Job, namely, that whether he did or did not find anthropomorphisms and anthropopathisms offensive, he reproduced the Hebrew terms literally and correctly.

## MYTHS, GENEALOGIES, AND JEWISH MYTHS AND THE WRITING OF GOSPELS

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THIS paper is frankly speculative, for the allusion to myths and genealogies and Jewish myths in the Pastoral Epistles is, on the testimony of distinguished commentators, quite uncertain.

Two usual explanations, separate or blended, are quite hoary. I Tim. 1.4, which speaks of myths and genealogies, is usually explained as reflecting a gnostic practice,<sup>1</sup> involving aeons and their successions, such as Irenaeus<sup>2</sup> describes. This is a plausible explanation for I Timothy.

The second explanation, however, couples the Timothy passage with Titus, 1.10-14, where the indulgers are described as "Jewish" and the fables as "Jewish." Commentators at this point turn away from the gnostic explanation and speak, sometimes most omnisciently, of the Talmud and its frivolous exegesis of Scripture.<sup>3</sup> Though no one

<sup>1</sup> Lock, *ICC, The Pastoral Epistles*, 8-9, begins by stating that "The exact reference is uncertain." He goes on to suggest two possibilities, of which the explanation along the lines of Gnosticism is his second and that of the "Rabbinical Haggada" is his first.

<sup>2</sup> Lock, *op. cit.*, points especially to *Adv. Haer.* I, 30, as an example of profitless discussions. I Tim. 14 is paraphrased in Irenaeus' preface, apparently there directed against Valentinus, as in Tertullian (*Praescr.* 7 and 33).

<sup>3</sup> Spence, in *Ellicott's Commentary on the Whole Bible*, VIII, 253-254, reads as follows to Titus 1.14: "Not giving heed to Jewish fables. — Such as we now find embodied in the Talmud (See Note on I Tim. 1.4). The oral law and traditional interpretations and glosses had, to a great measure, obscured the original simple text. The Israelite of the time of St. Paul, trained in the stricter Jewish schools, was taught that the way to win the approval of the Most High was through the observance of countless ceremonies and the practice of an elaborate ritual." When we look back to the note on I Tim. 1.4, we read as follows: "These fables were, no doubt, purely Rabbinical. It was said in the Jewish schools that an oral Law had been given on Sinai, and that this Law, a succession of teachers had handed down . . . For centuries this supplementary code was preserved by memory or in secret rolls . . . Genealogies in their proper sense, as found in the Book of the Pentateuch, and to which wild allegorical interpretations had been assigned. Such purely fanciful meanings had been already developed by Philo, whose religious writings were becoming at this time known and popular in many of the Jewish schools. Such teaching, if allowed in the



would deny that the Talmud contains some frivolities, it chances that these particular ones needed here are not to be found in it. Strack and Billerbeck, with their remarkable gift for assembling parallels, quasi-parallels, pseudo-parallels, and irrelevancies, abstain here from quoting even one little stray passage.<sup>4</sup> There is such a quotation, however, reproduced in Dibelius' commentary,<sup>5</sup> from Baba Batra 91a;<sup>6</sup> we should not conclude that Strack and Billerbeck overlooked it, but rather that they properly recognized its ineptness. This second explanation of Talmudic myths is most implausible.

Christian church, St. Paul saw would effectually put a stop to the growth of Gentile Christendom."

The view that Paul wrote the Pastorals — rejected by virtually all modern commentators but Roman Catholics — finds support for solving the allusion as Talmudic, often more judiciously than the helter-skelter words of Spence, by coupling our two passages with Titus 3.9: "But avoid stupid controversies, genealogies, dissensions, and quarrels over the law, for they are unprofitable and fruitless." See Dummelow, *A Commentary on the Holy Bible*, where we are told that the allusion means "not Gnostic stories of emanations and aeons, but idle Jewish legends and genealogical claims . . ." Easton, who rejects the Pauline authorship, says of Titus 3.9 (*The Pastoral Epistles*, 104): "The explicit mention of the Law may be due to a desire for a Pauline coloring." Lock, who abstains from committing himself clearly on the authorship, merely cites Ambrosiaster and Jerome on genealogies, but says nothing about the Law. Another rejector of Pauline authorship, Dibelius, *Handbuch zum Neuen Testament*, XIII, *Die Pastoral Briefe*, makes no comment on Titus 3.9, but discusses 3.8–11 as a discussion of the Pastor's ideal piety contrasted with the heretically inclined.

<sup>4</sup> The only notice they take is on I Tim. 6.4 (III, 655), to which they have a cross reference from Titus 3.9. They point to several references to show that *ζητήσεις* and *λογομάχαι* "hat es auch in den jüd. Lehrhäusern gegeben." None of these references, however, impinge on myths or genealogies.

<sup>5</sup> *Op. cit.*, 10.

<sup>6</sup> This is the passage: קמ"ל שאפי' מי שיש לו זכות אבות אינה עומדת לו בשעה שיוצא מארץ לחוצה לארץ ואמר רב חנן בר רבא אמר רב אמיה דאברהם אמתלאי בת כרנבו אמיה דהמן אמתלאי בת עורבת. וסימך טמא טמא טהור טהור אמיה דרוד נצבת בת עדאל שמה אמיה דשמשון צללפונית ואחתיה נשיין: למאי נפקא מיניה לחשובת המינין.

Rashi's comment on the last two words is: ששאלין לנו יותר באלו מנשים אחרות כדפרישית טעמא ואנו משיבין להן שמסרו לנו הנביאים בעל פה.

The passage, in the judgment of my colleague Professor Alexander Guttman, whose valuable assistance I gratefully acknowledge, is a strictly haggadic layer. It focusses on three biblical worthies, Abraham, Samson, and David, the names of whose mothers are not supplied by the biblical text. These names are supplied in our passage, after which the question of the utility of the information is queried; and to this the laconic response is made, "For replying to the *minim*."

Dibelius comments that the word "myths" in combination with genealogies prohibits understanding the allusion to descent from Abraham, for neither Paul nor a Pseudo-Paul would have termed Abrahamic descent as a "myth." He cites the authority of G. Kittel (*ZNW*, 1921, 49 ff.) that post-exilic Judaism harbored gene-

It would seem that the disposition to regard the allusion either as Talmudic or as gnostic is conditioned by one's accepting or rejecting the Pauline authorship of the Pastorals. That is, if Paul wrote these words, then they would seem to be reflecting Paul's quasi-rabbinic experience intimated in Acts, and represent an early problem faced by the church. On the other hand, if they are from a later hand, then they are concerned with orthodoxy and heresy, that is internal problems of a later day, and consequently more likely to fit some gnostic source than a rabbinic one.

Now in the judgment of most of the commentators, gnostic tendencies and rabbinic frivolities are mutually exclusive. How, then, could they understand the blend of gnosticism and Judaism in the Pastorals? A way out was suggested by Hort<sup>7</sup> in 1894. The Judaism represented in the allusion, we are told, is not to Pharisaism but some "speculative form of Judaism out of which some forms of 'Gnosticism' may later have been developed . . . So far as it is extant still it is to be found comparatively little in the Talmud, much more in the Midrash, partly also in Philo and Josephus. But we can perhaps form a still better conception of it from the book of Jubilees . . . It might with good reason be condemned by St. Paul as trashy and unwholesome stuff."<sup>8</sup> Hort makes no further effort to identify this form of Judaism.

alogical speculations which under some conditions could involve "heresy." Dibelius continues: "Dass in diese Diskussionen auch Christen verflochten wurden, zeigt Baba Batra 91a . . . Aber in den Past kann man eine Polemik gegen solche Spekulationen nur finden, wenn man wegen Tit. 1.10; 1.14 eine Art von Judaismus für das wesentlichste Element der hier bekämpften Ketzerei hält."

Another comment of Dibelius is worth citing (p. 42): "Schliesslich konnte jede Nahrungskese, jede besondere Tagesheiligung von den Christen 'Judaismus' genannt werden."

<sup>7</sup> *Judaistic Christianity*, 132-137.

<sup>8</sup> *Op. cit.*, pp. 134 and 137. On this former page Hort discusses and discards a theory of Weiss which would identify these errorists with the Essenes. On p. 130 Hort declares himself in favor of Pauline authorship of the Epistles. On p. 135 Hort cites from Polybius ix, 1.4 an assertion that Polybius has been pursuing an "austere" narrative, rather than enticing his reader by *ὁ γενεαλογικὸς τρόπος*. This latter phrase, according to Hort, refers to Greek historians whose histories of earlier times were full of mythologies of early legends; on this, see below the citation from Colson, note 10. Hort goes on to show that "Philo divides the Pentateuch first into history and law, and then subdivides the history into creation and *τὸ γενεαλογικόν*, of which, he says, part refers to the punishment of the impious, part to the honour of the righteous . . . He uses the term in no depreciatory sense . . . Now if Philo could apply this term to the historical part of the Pentateuch, it would *a fortiori* be applic-

Colson,<sup>9</sup> writing in 1918, makes the telling point that the expression "genealogies and myths" was in use by literary critics of the time. It was a frequent phrase of disparagement of a mode of writing history. Such hellenistic critics held that to use genealogies and myths was to be pre-occupied with the inane and the trivial. Since such criticism in the hellenistic world would scarcely have touched on rabbinic haggada, Colson goes on to describe the Judaism under allusion as a "somewhat conceited pseudo-Hellenized form."<sup>10</sup> Perhaps this is correct. But one has the suspicion that this Judaism represents some group whose existence is needed to lend some substance to the thread of wavering explanation, and it would appear that having been created because of the text, it can, at the next turn of the circle, be directly elicited from it.

Easton, who accepts the explanation of gnosticism, says, in 1947,

able to the rank growth of legend respecting the patriarchs and other heroes of early Mosaic history . . ."

It is to be noted that Hort is arguing not from evidence, but from logic — and it seems rather poor logic. It would seem also to reflect an acquaintance with Philo via excerpt rather than intensive study, and, furthermore, one wonders how much genuine personal reading Hort ever did in Midrash, Jubilees, and Philo. The documentation which Hort supplies for his comment of the Haggada is limited to a reference to a chapter in Schürer, II, i, 339–350. George Foot Moore does not mention Hort in his article, "Christian Writers on Judaism," *HTR*, 1921, 197–254; the words there relating to Bousset would well apply here: "Bousset never conceived his task as a historian; it was not Judaism as a religion, but Judaism as the background, environment, source and foil of nascent Christianity that he has in mind . . ."

<sup>9</sup> *JThS*, 1918, 265–271. Kittel, "Die *γενεαλογίαι* der Pastoralbriefe" (*ZNW*, XX, 1921, pp. 49–69) devotes much of his essay to the question of proper methodology required to identify the malefactors. He proposes to make good an alleged deficiency: "Nur ein Gebiet ist bisher im Verhältnis recht wenig zur Veranschaulichung herangezogen worden: die Talmudische Literatur." Kittel goes on to describe various genealogies among Jews (such as in Genesis and Chronicles), and comes to concentrate on the *מסות* as in Pes. 62b, of the Rabbis, and other preoccupations along this line in the Talmudic literature. He gives us much data, but little relevancy; and, on the side of methodology, I believe that he gives much more attention to suppositions about the background than he does to the text itself. Of Hort and Colson he says not one word.

<sup>10</sup> *Op. cit.*, 269. Colson continues: "I venture to think that on one point at least my view meets the facts better than Dr. Hort's. For when Dr. Hort suggests that the writer attacks the frivolities of the Haggada, he overlooks the fact that the writer of 2 Tim. is apparently a Haggadist himself." The allusion is to the mention of Jannes and Jambres. "It would seem strange that one who saw such danger in Haggadic legend should write thus. But it is quite intelligible that one who cherished Haggadic lore should strongly object to seeing it treated on a par with heathen myths." Colson adds in a footnote: "Indeed such a feeling may perhaps lie behind the phrase *Ιουδαϊκοὺς μυθοὺς*. 'You apply the term *μῦθοι* with all its evil associations to our venerable traditions.' " This last sentence of Colson's is not crystal-clear.

about the passage in Titus: "Strictly speaking there was no such thing as Jewish gnosticism . . . If a Jew became a gnostic he renounced his religion. A renegade Jew, however, might have become a gnostic; of these Simon Magus is the most familiar."<sup>11</sup> We move, accordingly, from Colson's pseudo-Hellenized Judaism into apostate Judaism, and what is consistent about the motion is that it carries us away from Talmudic Judaism.

Now Colson, in his article,<sup>12</sup> has made the point that interpretation had coupled the I Timothy passage with that in Titus because they are so similar, but that if one had not had Titus, nothing in I Timothy would have suggested some Jewish group. This seems to me to be exactly right. The line of thought which I have been pursuing in my own study has been to try to understand the passage in Titus in the light of Timothy, rather than Timothy in the light of Titus. My initial query to myself went along these lines, why in the midst of pseudonymous epistles devoted to internal matters do we suddenly encounter this allusion to something from the outside? Easton, renders, *μάλιστα οἱ δὲ ἐκ τῆς περιτομῆς* by the phrase "Jews, especially." Notice, though, how different the nuance is when we turn to Moffatt who rendered it, "those who came over out of Judaism." The RSV reads "especially the circumcision party." Easton's rendering is an unhappy one.

The conclusion seems right to me that the issue raised by the Pastor is indeed an internal one and that "Jews" involved are Christians. When once this is recognized, one can diminish his efforts to find either a frivolous Talmudic Judaism or a conceited hellenized Judaism.

Then why search in Judaism and its literature for relevant genealogies and myths? Is this not an issue of inner Christian partisanship? Why not do the simple and obvious thing of searching in the New Testament? No commentator to my knowledge has suggested this.

Perhaps the issue of terming certain teachings "myths and genealogies" is a clue to what may have been a broad subject of warm

<sup>11</sup> *The Pastoral Epistles*, 87-88. Easton holds the Epistles to be pseudonymous. Respecting Hort's view he says (p. 112): "The nature of the endless genealogies should never have been in doubt; Irenaeus quotes this verse in the first sentence of his *Heresies* . . . It is therefore quite impossible to identify the 'genealogies' with legends about the pedigrees of the patriarchs, Rabbinic haggadas . . . or Philo's own allegories. Such productions were often futile and wearisome, but they were academic speculations of the learned, which could by no stretch of the imagination endanger the Church's general harmony."

<sup>12</sup> Pp. 267-268.

discussion and debate in Christendom between 100 and 125. That subject might have been phrased in this way: "How shall an acceptable Gospel be written?" The answer would suppose requirements, as for example, that a Gospel should promote faith rather than, by infelicities, engender resistance or skepticism. Its appeal should be broad: to old and young, to poor and rich, to the lowly and the lofty, to the dull and the quick-witted, to the unlettered and the erudite. Moreover, and here would be the most important facet, a proper Gospel should depict the humanity of Jesus without impugning his divinity, and his divinity without repudiating his humanity.

A Gospel able to satisfy all possible readers — *at a time previous to its canonization* — may well have been too formidable a challenge for successful accomplishment by any one single effort.

Both Matthew and Luke set forth genealogies. These have been quite a problem to centuries of interpreters. They have a different scope and order, and where they overlap they do not accord, nor do they conform to data in the Old Testament. Moreover, the Matthean genealogy in 1.16 reaches its natural high point in Joseph, whose son, according to the Greek text, Jesus was not, though the Syriac contains a well-known different reading. Mark, on the other hand, both lacks a genealogy and rejects (12.35-37) the Davidic descent: "David himself calls him Lord; so how is he his son?" One recalls John 8.58, "Before Abraham was, I am." Why is there no genealogy in Mark? Or was there a time when Mark also began with a genealogy? Does the first verse, which lacks a verb and also an article for ἀρχή,<sup>13</sup> replace a genealogy which was present and later excised?

John likewise has no genealogy, but instead the oft-debated *logos* prologue. It has been said over and over again that the *logos* disappears from John, except by implication, once we pass the prologue. Is the *logos* prologue a replacement for a genealogy once there — something I doubt — or is it an affirmative prefix designed to divert an expectation of a genealogy?

John, moreover, as is well known, gives us only a scattering of incidents about Jesus. Such Synoptic material as the birth in Bethlehem, the baptism, the temptation, the transfiguration, the agony in the garden, the ascension — all these are ignored. Not one parable or pithy saying appears; the many miracles, healings and exorcisms of the Synoptics are reduced in John to what Schmiedel<sup>14</sup> has called one example of each class of miracle, and what miracles John does use

<sup>13</sup> See Klostermann, *Markus (Handbuch zum Neuen Testament, III)*, 1.

<sup>14</sup> *Encyclopaedia Biblica*, II, 2521.



in common become enhanced and appear in a context in which the narration is clearly secondary to the significance of the miracles. Did John regard the abundance of Synoptic material as myths?

Could it not seem that John in writing his Gospel, was making an effort to avoid genealogies and myths? If Colwell is right,<sup>15</sup> and I believe he is, that John is trying to supplant the Synoptic Gospels, does the procedure not seem to reflect some repudiation of genealogies and myths? And if such materials were uncongenial to John, is it too much to suppose that they were uncongenial also to the Pastor?

It is a commonplace that the Fourth Gospel and Paul have some doctrinal similarities or affinities. What shall we make of Paul's aside, found in II Corinthians 5.16, that he once regarded Christ *κατὰ σάρκα* but does so no longer? Is it a reference to the earthly life and deeds of Jesus?<sup>16</sup> Some commentators reject the suggestion, but what they

<sup>15</sup> *John Defends the Gospel.*

<sup>16</sup> Floyd V. Filson, (*The Interpreter's Bible*, X, 336-338) says: "As applied to Christ, it means to think of his lowly life and shameful crucifixion as proof that he was disowned by God and so should be rejected by men. Paul once regarded Christ in this way; that was before he became a Christian, when he was still sinfully persecuting Christ's followers. But now (*νῦν*) since we have become Christians, we regard him thus no longer, for he was sent of God to save men" etc. Filson is ostensibly supplying the "exegesis"; in the "interpretation" by Read, just below the exegesis, we read that the RSV, in rendering the phrase "from the human point of view" succeeds in disposing "of various speculations concerning his meaning which were left open by the KJV, 'though we have known Christ after the flesh.' It disposes of the suggestion that Paul was speaking of his estimate of the Christ as the Jewish Messiah. Equally impossible is the idea that Paul refers to his knowledge of the earthly life and deeds of Jesus . . . The statement means just what it says. All false ideas about him were gone . . . To regard Christ from a human point of view means to lay emphasis on externals, to think of him merely in relation to his own time, to become immersed in such personal details as are emphasized in some biographies. These may be interesting but they do not really matter . . . This does not mean, as has been suggested, that Paul was indifferent to the earthly life and teaching of Jesus, and that he depended upon the Spirit for all he knew."

Bultmann, *Theology of the New Testament*, I, 237 (Eng. translation), terms the phrase "according to the flesh," as "*an existence or an attitude not as natural-human, but as sinful*" (his italics). He reverts to the passage, p. 238; insofar as I understand him, Bultmann first is suggesting that *κατὰ σάρκα* can possibly modify the verbs in the sentence, rather than the nouns; "but this decision means nothing for the sense of the total context, for a 'Christ regarded in the manner of the flesh' is just what a 'Christ after the flesh' is."

The problem can be pursued through endless writers, as I have done, but with little yield; some commentators glide over the passage as though it were not there; others seem to me to talk around it. In sum, Weizsäcker seems to me to have been on the right track (*The Apostolic Age of the Christian Church*, tr. from 2nd rev. ed., I, 142) in saying: "Paul was expressing his judgment on the value of the earthly life

offer in its place is hardly persuasive or illuminating. Let us go beyond the direct evidence and suppose that it is indeed a reference to a practice which Paul had once followed but had abandoned, namely, that in his preaching he had formerly appealed to this or that incident in the human career of the Christ Jesus, but now he did so no more.

Why?

It is because for all the attractiveness of this or that incident, they pale into insignificance compared with the majesty of the conception which Paul has of the total import of the Christ Jesus. Is it then conceivable that, even before John, Paul came to the conclusion that this or that detail, such as the Synoptics furnish, when weighed against the totality, was little better than a "myth"?<sup>17</sup> If this seems unlikely, then how shall we explain the tendency in the ante-Nicean fathers<sup>18</sup> to allegorize the materials in the Gospels which by their time had become canonical? One does not allegorize a text which is not, in some way, troubling; allegory, as every student of Philo knows, is the device by which one binds himself to a text which he both holds to be sacred and also feels to be disquieting. Would Paul have liked the Synoptics, or

of Jesus, in contrast with His present rank." So, too, Carré, *Paul's Doctrine of Redemption*, p. 140, declares that the passage "means that the earthly historical Jesus had no vital significance for him." See also in Lietzmann, (*Handbuch zum Neuen Testament*, IX) "An die Korinther" I-II, pp. 125-126, the interesting and probably likely view that the passage reflects the contentions between "disciples" who had known Jesus and "late-comers," such as Paul, who had not known him. The passage would mean: "Wenn ich auch, wie es ja der Fall ist, Christus einst persönlich gekannt habe, so mache ich jetzt davon keinen Gebrauch." Dibelius, *Paul* (Edited and completed by W. G. Kümmel, tr. by Frank Clarke, pp. 54 ff.) declares that the verse is "first of all a repudiation of the view of all those who relied on connections, even on personal connection with Jesus . . . It is therefore a . . . probable inference . . . that Paul had never seen in earthly form the one he portrayed . . . The Lord who had been raised up to God . . . was more real and more binding than the historical connection with Jesus. We may ask whether . . . the historical life of Jesus had any effect on him . . . If he had had any discussion with a man like Stephen, it would have concerned the coming salvation and the resurrection, not the paltry, trifling incidents . . . in the life of Jesus . . . Earthly connections, even connections with the historical Jesus, were no longer of any account."

<sup>17</sup> The German "Fabeln" carries the import better than does the English myth. "Myth" has too great an overtone which connotes false or unhistorical. I would not suggest that the Pastor would regard details, such as the Synoptics, as unhistorical. It is their triviality or their irrelevance which he is underscoring, and not their falsity. Somewhat congruently Philo is moved to deny (at least momentarily) the literalness of narratives in the Pentateuch, such as Sarah's quarrels with Hagar, as at the end of *Congress*; allegory, having given Philo a satisfactory measure of spiritual significance, can also prompt him to disregard the details of narrative.

<sup>18</sup> Such as Clement of Alexandria and Origen.

would he have preferred John? Do not the Pastoral Epistles and John come from the same general period, 100-125? Is John a Gospel which the Pastor may have found more congenial than he found the Synoptics?

In the time since Irenaeus,<sup>19</sup> the fourfold Gospel has evoked from Christendom exactly those attitudes which canonization calls forth. From the vantage point of accumulating centuries it may be difficult to envisage the possibility that individual Gospels, now uniformly adulated, were at times regarded with suspicion and antagonism in portions of the early church. Yet anyone who accepts the priority of Mark and who uses colored pencils on a Synopsis of the Gospels, comes away with a sense that bits and pieces in Mark dissatisfied Matthew or Luke or both. That such dissatisfaction could extend to the totality of a Gospel, because of its tone and method, may seem unlikely and unreasonable. Yet the Gospels existed before they were canonized; and canonization in general did not preclude opposition both before and after. Witness the rabbinic perplexities about Ezekiel, Canticles, Ecclesiastes and Esther.<sup>20</sup> Canonization does not mean that there was not some passing or abiding opposition.

Indeed, when one sees how Jubilees, or Philo, or Josephus<sup>21</sup> exercise selectivity, recasting, and *eisegesis* in working over a canonical book, Genesis, then even canonization does not prevent a commentator from having some marked reaction and response to what he reads.<sup>22</sup> To object to what is in a canonical book is markedly more drastic than to object to a book as yet uncanonized.

Reverting to John, my suspicion is that his objection to the Synoptics was not so much to details, though he has such objection, but rather to the manner and method of them. An equation can be set up which runs like this: The rabbinic haggada is to Philo as the Synoptics are to John. The rabbis regale us with haggadic anecdotes about Abraham; Philo has not one. For Philo is trying to express what to him is the higher significance of Abraham (or Isaac or Moses) and folksy materials are scarcely on the austere level which his humorless-

<sup>19</sup> Cf. Salmon, *A Historical Introduction to the Study of the Books of the New Testament*, pp. 31-35.

<sup>20</sup> See "Bible Canon," #11: "Controversies about Separate Books," in *JE*, III, pp. 148-149.

<sup>21</sup> See my *Philo's Place in Judaism*, pp. 29-35.

<sup>22</sup> It is unlikely that Kings was canonical when Chronicles was written; the manner in which the Chronicles used Kings is, however, another illustration of how traditional material can be used to serve a *Tendenz*, and how similar material can be variously presented.

ness demands. John, it seems to me, has no admiration for the method of the Synoptists, out of a comparable pre-occupation with what is to him the abiding significance of Jesus the Christ.

In short, it seems to me possible that our passages in the Pastorals are directed toward such Gospels as the Synoptics in particular. As for the phrase οἱ δὲ ἐκ τῆς περιτομῆς, to regard the Pastorals as coming from Paul was not impeded by an effort to bring the tone of Titus near to that of the Galatians;<sup>23</sup> and to label the indulgers in genealogies and myths Jewish was to indulge in an ancient anticipation of a modern tendency to damn by epithets. The Pastor seems to be saying that genealogies and anecdotes are trivial and a waste of time, and moreover, they are something that "Christian" Christians will have no truck with — they are a "Jewish" predilection.

The merited attention which Form Criticism has focussed on pericopes seems to me to have had this debit, that there has been little attention paid in recent New Testament scholarship to the Gospels as totalities. Granted that Mark or Matthew is each the sum of its parts, there is need to proceed beyond the abundance of details and into an assessment of each of the Gospels as an entity. Plural Gospels should alert us to the probable existence of plural views; plural views ran the gamut from mild divergency through direct antithesis.

If this is reasonable, then there are in it implications for understanding early Christianity. Thus, Matthew wrote *because* he objected to the tone and content of Mark, and he had some deficiencies to supply. Luke wrote *because* he objected to both Matthew and Mark. John wrote out of objection to all three.<sup>24</sup>

And did John fail to elicit objection? Epiphanius tells us, punningly, of the shadowy Alogi who objected to it.<sup>25</sup> Were there others? Was there an attitude such as this, that John did well in eliminating the genealogy and in reducing the number of incidents, but he still has some. Is there not a different and better way?

<sup>23</sup> See above, in note 3, Easton's comment, and in note 6 Debelius', on the desire for a Pauline coloring.

<sup>24</sup> The Tübingen school alerted scholarship to the presence of *Tendenz* in ancient books, but it often failed to identify the *Tendenz* accurately and persuasively, partly because of its bondage to Hegelianism. In my forthcoming *The Genius of Paul* I set forth what I believe to be a more prudent statement of the true *Tendenz* in Acts; and I set forth there a view of Mark, which, if correct, has some very radical implications for both Gospel study and also for early Christian history. I have adumbrated some of this material on Mark in *A Jewish Understanding of the New Testament*.

<sup>25</sup> *Haer.*, II, i. 57.

Does not Hebrews avoid more successfully the pitfalls inherent in all four Gospels? What shall we make of Hebrews 7.3, with its sequence of ἀπάτωρ, ἀμήτωρ, ἀγενεαλόγητος? Do these words mean no more than Davidson's comment, in his commentary (p. 131): "The words do not mean that Melchisedec came into existence having no father and no mother, but that in the picture presented of him in Scripture, he stands unconnected with any family, and yet a priest"? While it is true that the verse is about Melchizedek, and not about Jesus, what the verse is trying to show is the similarity between the two. Is not Hebrews, despite its quasi-epistolary form, a kind of Fifth Gospel, devoid of genealogies and free of that kind of narrated incident which a captious critic might have called a myth?

The author, or authors, of the Pastoral Epistles would seem to stand somewhere in between the canonical evangelists and the "docetic" heretics. They do not, as did the latter, deny the humanity of Jesus; they seem, however, to be uncomfortable about some ways of describing the historical Jesus. Whether it is only what they regard as infelicitous in the Synoptic tradition which elicits their disapproval of genealogies and myths, or whether they went on to virtually total disinterest in the historical Jesus, is beyond precise identification. Indeed, it might have been a combination of both.

Though the above is admittedly speculative, it is hardly mere conjecture to conclude that the allusion to "Jewish" myths is meaningful only on the basis of its being a problem internal in Christendom. The perpetrators were ἐκ τῆς περιτομῆς not ἐν τῇ περιτομῇ.





## RELATED PROHIBITIONS: SWINE BREEDING AND THE STUDY OF GREEK

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IT IS well known that the dietary laws in Lev. 11 and Deut. 14<sup>1</sup> are of very wide range and cover a great variety of species under the four principal genera of quadrupeds, creatures in the water, birds and "creeping things." Among the various species whose flesh Pentateuchal law excludes from Israel's dietary, the swine is but one item in no way more conspicuous than any of the others. If it is to be inferred from that law that the Jews were averse to the eating of pork, there is no reason to assume that that aversion of theirs was more pronounced than their aversion to other kinds of food ritually forbidden to them. In the Hebrew scriptures outside the Pentateuch, the mention of the swine in Ps. 80.14 and Prov. 11.22, although by no means flattering, has no bearing on pork as a dish; whilst the vehement denunciation in Isa. 65.4 and 66.17 of the eating of swine's flesh and, *ibid.* 66.3, the offering of swine's blood, practices apparently held by the scriptural writer in special abhorrence, is probably rather due to their association with idolatrous rites than to a particular aversion to pork.

In the Hellenistic age, the swine does in fact figure in such rites. Antiochus IV Epiphanes decreed in 168 B. C. E., among other measures for the total suppression of Judaism, that the Jews should build altars,

<sup>1</sup> Abbreviations (apart from standard symbols for biblical books, talmudic tractates, etc.): *ARN*=*Aboth de R. Nathan*; *BH*=*Beth ha-Midrash*, Jellinek, 2nd ed., Jerusalem, 1938; *BM*=British Museum; *CAH*=*Cambridge Ancient History*; *DS*=*Dikduke Soferim*, Rabbinovicz; *DSH*=Dead Sea Habakkuk Commentary; *ER*=*Esther Rabbah*; *FHG*=*Fragmenta Historicorum Graecorum*, Müller; *GR*=*Genesis Rabbah*; *JJS*=*Journal of Jewish Studies*; *JQR*, NS=*Jewish Quarterly Review*, New Series; *QR*=*Qohleth Rabbah*; *LCL*=Loeb Classical Library; *LJ*=*Legends of the Jews*, Ginzberg, Philadelphia, 1942-6; *LR*=*Leviticus Rabbah*; *M*=Maimonides; *MŠ*=*Melekheth Shelomoh*, Adeni, in the Romm quarto *Mishnayoth*; *MT*=*Midrash Tehillim*, ed. Buber; *NR*=*Numeri Rabbah*; *PR*=*Pesikta Rabbathi*, ed. Friedmann; *R*=Reinach, *Textes d'Auteurs Grecs et Romains Relatifs au Judaïsme*; *REJ*=*Revue des Études Juives*; *SB*=Commentary on the NT by Strack and Billerbeck; *ŠM*=*Shittah Mekubbeṣeth*; *SOR*=*Seder 'Olam Rabbah*; *ŠR*=*Shir ha-Shirim Rabbah*; *T*=*Midrash Tanhuma*, ed. Buber; *TR*=*Threni Rabbathi*, ed. Buber; *Tos*=*Tosifṭa* (ed. Zuckermann) or *Tosafoth*. I am grateful to Dr. S. Stein, Head of the Hebrew Dept., University College, London, for many valuable suggestions.

groves and idols and should sacrifice swine.<sup>2</sup> Also in the legends about the martyrs who are said to have suffered death for their defiance of the king's command to eat swine's flesh,<sup>3</sup> that dish figures rather as part of an abhorred sacrificial meal linked with idolatry<sup>4</sup> than as a dish held in abhorrence *per se* on account of its ritual prohibition. In the rabbinic version of those legends,<sup>5</sup> placed in the Roman phase of Jewish history, there is in fact no mention of swine's flesh but only of idolatry.

The references to swine in the NT, especially in the accounts of the incident with the possessed in the country of the Gadarenes,<sup>6</sup> doubtlessly indicate special abhorrence for that animal. It is not clear, however, whether that reflects current notions held by the rank and file of the Jews of the age or merely sectarian notions on the periphery of Jewish society. It is equally doubtful whether the herd of swine in the mentioned incident, said to have been feeding somewhere near the eastern shore of the Lake of Gennesaret<sup>7</sup> which had a mixed population, was tended by Jews or by Gentiles.<sup>8</sup>

In view of the doubtful nature of these antecedents, it is not clear whether the ruling preserved in the Mishnah, Baba Ḥamma vii.7, that "a Jew must not rear pigs anywhere" dates from the Hellenistic or Roman phase of Jewish history. The textual variants of that ruling have been fully discussed by the late Prof. Samuel Krauss<sup>9</sup> who, *inter alia*, correctly explains the term "anywhere" as a contrast to other rulings in the same Mishnah, against the breeding of other species, which apply in restricted areas only, *viz.* Jerusalem or the Land of Israel. On the whole, however, Krauss deals somewhat cursorily with the ruling against the breeding of pigs; mainly aiming to elucidate the wider subject of all talmudic rulings of this kind. Nor has the said ruling, to the best of the present writer's knowledge, so far been adequately investigated by anyone else. Yet it deserves detailed examination, as the light it sheds on obscure episodes in Jewish history is of no mean interest to historians and *halakhists* alike.

<sup>2</sup> I Mac. 1.47. According to the report in *Ant.* xii, v, 4 (253) and xiii, viii, 2 (243), the king himself sacrificed swine in the temple at Jerusalem.

<sup>3</sup> II Mac. 6.18 ff. and 7.1 ff.; IV Mac., *passim*.

<sup>4</sup> II Mac. 6.22 and 7.42; IV Mac. 5.2.

<sup>5</sup> B. T. Git. 57b; *TR*, 84; *PR*, 180b.

<sup>6</sup> Mt. 8.28 ff.; Mk. 5.1 ff.; Lk. 8.26 ff. The "Gadarenes" in the AV and RV of Mt. have a different name in Mk. and Lk., whilst the MSS offer further variants; cf. SB *ad* Mt. 8.30; Hasting's *Dictionary of the Bible*, II, s. v. Gerasenes; and other works of reference.

<sup>7</sup> A closer identification of the locality is a wearisome *crux interpretum*; cf. *ibid.*

<sup>8</sup> Cf. SB, *loc. cit.*; Wünsche, *Erläuterung d. Evangelien*, 119.

<sup>9</sup> REJ, LIII, 16 ff.; cf. also *DS ad loc.*

The purpose of the following pages is to attempt this less ambitious investigation in a narrowly delimited field of study, to ascertain the origin of the ruling against the breeding of pigs, its apparent connection with the *tannaitic* ruling against the teaching of the Greek language as well as the date and historical background of those rulings.

In a well known tannaitic *aggadah*, preserved in three nearly identical records in the Babylonian Talmud,<sup>10</sup> the mentioned Mishnic ruling against the breeding of pigs is said to originate from an unseemly incident in the course of the fratricidal strife between the Hasmonean princes Hyrcanus II and Aristobulus II. When Hyrcanus was besieging Aristobulus in Jerusalem,<sup>11</sup> sacrificial animals became scarce and were purchased at a high price. Day after day, the besieged lowered over the walls *denarii* in a box to the besiegers who in return sent up sacrificial animals required for the offering of the *Tamid*. One day an old man acquainted with Greek hinted to the besiegers in that language that as long as the besieged went on with the sacrificial service they would not be vanquished. Next day, when the box with the money was lowered, they sent up a pig in return. Half way up, it thrust its paws against the wall, and a tremor shook the Land of Israel in all its 400 *parasangs*. At that time did they declare: "Cursed be the man who will rear pigs! and cursed be the man who will teach his son Greek!" At that time did it happen, the report continues, that the 'Omer to be offered on the second day of Passover, generally brought from the immediate neighborhood of Jerusalem as stated in *Menahoth* x.2, was brought from *Gaggoth Şerifin* and the Pentecost offering of Two Loaves from the Valley of 'En Sokher.<sup>12</sup>

The talmudic commentators<sup>13</sup> ascribe this scarcity of a fresh growth of barley and wheat in the environs of Jerusalem to the besiegers' devastation of the district. In an *aggadah* in the Palestinian Talmud,<sup>14</sup> however, the 'Omer and the Two Loaves respectively are said to have once been brought from the mentioned localities at a time when the Land of Israel had been hit by a blasting hurricane. Although there is no mention of a siege of Jerusalem in the latter narrative, there is nonetheless reason to assume that it is a parallel to the former; since the

<sup>10</sup> Soṭah 49b, B. Ḳ. 82b, Men. 64b.

<sup>11</sup> The variant in B. Ḳ., *loc. cit.*, interchanging the respective rôles of Hyrcanus and Aristobulus, is due to scribal error, as already surmised in Grätz<sup>1</sup> III, 537; cf. *DS ad loc.*

<sup>12</sup> For the identity of these geographical names, cf. Schwartz, *Das Heilige Land*, 127; Neubauer, *Géographie*, 81 and 170.

<sup>13</sup> Rashi *ad loc.* s. v. *w'l 'th š'h*; R. Gershom *ad Men.*, *loc. cit.*

<sup>14</sup> Shek. v, 48d. For the correct text of this passage *vid.* Tos. Men. *loc. cit.*, s. v. *w'l*.

two narratives agree in their description of how a certain Pethaḥiah or Mordecai, a reputed linguist and interpreter, extracted information from a deaf-mute and thereby located *Gaggoth Şerifin* and 'En Sokher. Moreover, the two talmudic narratives are seen combined in a parallel report by Josephus where it is related that at the time of the mentioned siege of Jerusalem, a joint operation by the forces under the command of the Nabataean king Aretas and by the Jewish supporters of Hyrcanus, "a strong and vehement wind destroyed the fruits of the whole country till a *modius* of wheat was then bought for eleven *drachmae*."<sup>15</sup>

On the other hand, there are noteworthy discrepancies between Josephus' report and the talmudic version of the mentioned incident. According to the talmudic version, the sacrificial animals wanted in the besieged city were the daily two lambs required for the offering of the *Tamid*. It is these that besiegers replaced by a pig. The transport of the 'Omer from distant *Gaggoth Şerifin* to Jerusalem, apparently without obstruction on the part of a hostile army, makes the impression that the siege was raised before the advent of Passover. Contrary to this, according to Josephus, the siege was still in progress when Passover was come; and the great number of sacrifices required on that festival was the very reason for Aristobulus and his priests to purchase sacrificial animals from their countrymen without the walls. Another, more striking, discrepancy is the omission of the pig incident by Josephus. In his report, the besiegers committed an offense by breaking their promise. On receiving the high price they had demanded, they failed to furnish the sacrifices as agreed. This and the subsequent divine visitation, the aforementioned devastating storm, was a sequel to their murder of Onias for his refusal to invoke a curse on Aristobulus and his party. There can be no doubt that this Onias, described by Josephus as a righteous man whose prayer for rain in a certain drought had been answered, is identical with Onias, the Circle-drawer, whose efficacious prayer for rain is the subject of a well-known narrative in Ta'anith iii.8. Of the murder of Onias, however, there is no record in the talmudic version of the strife between Hyrcanus and Aristobulus or anywhere else in talmudic literature.<sup>16</sup>

Modern historians are divided in their presentation of the episode in question. Some rely entirely on Josephus and ignore altogether the

<sup>15</sup> *Ant.* xiv, ii, 1-2. (20-28). In the parallel report, *BJ* i, vi, 2 (126-7), apparently a more pro-Herodian document, there is no mention of the incident.

<sup>16</sup> Unless one accepts with Brüll, *Mebo* I, 25, the name of *hnn hnhbh*, an *alias* of *hni hm'gl*, B. T. Ta'an. 23b, as an allusion to the incident.



talmudic version.<sup>17</sup> This is patently due either to biased distrust of talmudic traditions or to lack of access to talmudic literature. Other historians<sup>18</sup> combine the report of Josephus with the talmudic version. On the authority of Josephus, they relate the murder of Onias by the men of Hyrcanus and the want of festival sacrifices in besieged Jerusalem on Passover. As regards the pig incident, on the other hand, they accept the talmudic version. They further suggest that the "Old Man" in that version, the originator of the malignant advice proposed in Greek, is none other than the Idumaeen schemer Antipater whose intrigues prompted the ill-fated course of impotent Hyrcanus. As for Josephus' silence on the pig incident, Grätz<sup>19</sup> explains it away on the supposition that the Jewish historian, writing for a heathen public, had no wish to expose his people to their ribald laughter. This was reason enough for him to refrain from a clear presentation of the unseemly incident, Jewish aversion to pigs often being the subject of mockery on the part of heathen enemies.<sup>20</sup> At the same time, his vehement condemnation of the besiegers' conduct as the "height of wickedness" and "guilt of impiety" — strong terms hardly deserved by their breach of promise which was nothing more than mere roguishness [Spitzbüberei] — is a veiled hint, clear enough to those able to read between the lines, at a far more serious offense. In the Talmud, on the other hand, no considerations of this nature necessitated any restraint from calling an ugly thing by its distinct name.

This imaginative interpretation of Josephus' presentation of the incident in question, is vitiated by two considerations. Firstly, Josephus is not always so scrupulously reticent about events redounding to his people's disgrace. Secondly, a breach of promise to the temple, trivial though it may seem to some in the modern world, was looked upon in a different light in temple times. It was no mere roguishness but an act of sacrilege. Its censure recorded by Josephus, possibly transcribed from his source, will hardly have seemed too severe. For this reason, the great historian's explanation notwithstanding, there

<sup>17</sup> E. g. in the histories by Jost, II, 18; Hitzig, II, 493; Wellhausen<sup>7</sup>, 272; Schürer<sup>2</sup>, I, 2 35–6. Also Krauss, *loc. cit.* and Levy, in his *Talmudic Dictionary*, s. v. *ḥzir*, seem to hold that the talmudic version of the incident is without historic foundation. In many historical works the incident is likewise not mentioned at all.

<sup>18</sup> Grätz<sup>1</sup>, III, 162–3, 537–9 (in the later edd. of this work this view, though its presentation is somewhat modified, remains substantially the same); Milman, II, 81–2; Dubnow II, 173–5, *ibid.*, note 1.

<sup>19</sup> *Loc. cit.*

<sup>20</sup> Philo II, 531; I Mac. 1.47; II Mac. 6.18, *ibid.*, 7.1; *Ant.* xii, v, 4 (253), *ibid.* xiii, viii, 2 (243); Juvenal, *Satire*, VI, 159 ff.

is a very real discrepancy between Josephus' report and the talmudic version of the incident.

Nor is the modern historians' conjectural combination of the two sources altogether convincing. As regards the minor discrepancy between them, the season of the year at which the siege of Jerusalem was raised, there is unfortunately no external evidence to corroborate either of the two. The interference, in favor of the besieged Aristobulus on the part of Pompey's emissary Scaurus, by his order to Aretas and Hyrcanus to desist from the siege — a temporary settlement of the inner-Jewish dispute to be later reversed by Pompey — was apparently a minor event of relatively small significance that left no trace in the non-Jewish histories of the ancient world. At any rate, Josephus' record of that event<sup>21</sup> is the only record extant. Its trustworthiness, therefore, entirely depends on its own merits or demerits. Now Josephus' chronology of Pompey's occupation of Syria, the general background of the event under scrutiny, has been described<sup>22</sup> as "sadly confused." By the side of other inconsistencies in Josephus' chronology of the mentioned phase, which have no bearing on the present subject, the following data recorded by Josephus himself tend to support rather the dating of the incident implied in the talmudic version than that in his own report. According to Josephus, Pompey had ordered the disputants to meet him at Damascus. He set out for that city "in the beginning of spring," after bringing his army out of their winter quarters; and there it was that "he heard the case of the Jews and their leaders, Hyrcanus and Aristobulus, who were quarrelling with one another." Pompey's arrival at Damascus is placed, by Josephus himself, "not long after" Scaurus' aforementioned interposition on behalf of Aristobulus.<sup>23</sup> But for that seasonable interposition, again on the strength of Josephus' own testimony,<sup>24</sup> Aristobulus would have been "speedily captured" in Jerusalem by Aretas and Hyrcanus through the storming of the city. Whilst the chronological terms in this account of the events under consideration are, on the whole, vague and indefinite, they nevertheless make it appear extremely unlikely that between the encounter of Hyrcanus and Aristobulus at the siege of Jerusalem and Pompey's order to them to wait on him at Damascus, there elapsed as little as a bare few weeks or as much as a full year. Consequently, Josephus' placing of Pompey's order "in the beginning

<sup>21</sup> *BJ*, i, vi, 2-3 (127-8); *Ant.* xiv, ii, 3 (29).

<sup>22</sup> Cary, *CAH*, IX, 380, note 1; cf. also Marcus, *LCL*, Josephus VII, 460, note a.

<sup>23</sup> *Ant.* xiv, iii, 1-2 (34-41); cf. Marcus, *loc. cit.*, 465, note d.

<sup>24</sup> *BJ*, i, vi, 2 (127).

of spring," *i. e.* a time never much before or much after Passover, is hardly consistent with his own report that on or soon after Passover, whether in the same year or in the year before, the siege of Jerusalem by Hyrcanus was about to be raised by the interposition of Scaurus. In the light of all this, one will hardly attempt a more precise dating of these events than the cautious verdict<sup>25</sup> that Aretas and Hyrcanus besieged Jerusalem and Scaurus raised the siege *late* in 65 B. C. E. or *early* in 64 B. C. E. This, clearly incompatible with Josephus' placing of the siege and its raising, is quite in agreement with the talmudic version.<sup>26</sup>

As regards the financial side of the transaction, the purchase of sacrificial animals by the besieged, the talmudic version is likewise preferable to Josephus' report. The bald reference, in the talmudic version, to the daily purchase of two *Temidim* at a high — yet not necessarily extravagantly high — unspecified price, "*denarii* in a box," raises no objection to the verisimilitude of the story. On the other hand, Josephus' specified figure, the exorbitant price of "a thousand *drachmae* per head," at once rouses the suspicion of an over-dramatization of the incident. For a simple calculation leads to *quasi* astronomical figures. On each of the seven days of Passover, the sacrificial requirements of the temple consisted, apart from the daily two *Temidim*, of 2 bullocks, 1 ram, 7 lambs and 1 goat.<sup>27</sup> The besieged must therefore have offered 91,000 *drachmae* for the statutory festival sacrifices alone; not counting the paschal lambs on the eve of Passover, the 'Omer sacrifice "on the morrow after the Sabbath"<sup>28</sup> and other minutiae of sacrificial requirements.

Just the opposite is the case with the pig incident. In view of what is known of Hyrcanus and Antipater, Josephus' silence over the pig incident is a likely indication that there was no pig incident at that time. Hyrcanus, himself highpriest a short while before his siege of Jerusalem and aspiring to reassume that sacerdotal dignity, is the most unlikely person to have countenanced a sacrilegious coarse jest of that kind. Nor is it easy to imagine that his mentor Antipater should have permitted himself such scornful abuse of what was most sacred to the people he aspired to govern in the name of his weak *protégé*. It

<sup>25</sup> CAH, IX, 382; cf. *ibid.*, 402.

<sup>26</sup> According to Hitzig, *loc. cit.*, and Klausner, *Historiyyah Yisre'elith*, II, 184-5, Josephus' way of placing the siege by Hyrcanus is also traceable in talmudic literature. This is based on the unfounded — in fact, impossible — identification of the occasion of Onias' prayer for rain with that of his murder.

<sup>27</sup> Num. 28.19.

<sup>28</sup> Lev. 23.11-12.

is true indeed that the political ambition of the dynasty founded by that restless Idumaeen was in no small measure the cause of the disasters that subsequently befell the people of Judaea. This is, however, no reason at all to lay at Antipater's charge an act as unwise as impious. Antipater, with all his unscrupulous ambition, was a cautious and circumspect politician not devoid of some statesmanlike qualities. At a later stage in his career, at the zenith of his power, the trusted friend of Rome, the recipient of signal honors at the hands of her master Julius Caesar, and firmly established as Judaea's real ruler, he yet dissuaded his son Herod from overt violence to his enemies in Jerusalem.<sup>29</sup> It is therefore hard to imagine that right at the beginning of his course, whilst as yet a mere adventurer, suspect to Jews and Romans alike, he should have unnecessarily sullied his reputation by what must have been considered by all Jews alike, Sadducees and Pharisees and all others, an unpardonable insult.

It might be thought that, for this same reason, one equally has to view with suspicion Josephus' report about the murder of Onias by the men of Hyrcanus. There is however a very real difference between that crime and an insult to the temple. Whatever the moral grandeur of Onias' lofty refusal to be drawn into the deplorable strife between the two Hasmonean brothers, it may have been misjudged, by design or through sheer incapacity for comprehension, as political opposition to the cause of Hyrcanus. It is, in fact, not impossible that Onias *was* in a way a political opponent. He may have come from the ranks of those who subsequently pleaded before Pompey against both Hyrcanus and Aristobulus; spokesmen of the nation as Josephus puts it,<sup>30</sup> *i. e.* prominent Pharisees, in the view of modern historians. Whilst this by no means mitigates the dastardliness of the crime, the martyrdom of Onias at the hands of the irate soldiery is not without parallels in the annals of the human race or, for that matter, of the Jewish people. On an entirely different plane is the scornful abuse of the temple, an insulting affront to all Jews without distinction of political allegiance. Moreover, it passes comprehension that the Jewish besiegers of Jerusalem should have been unaware of the effect of the sacrificial service on the Jewish defenders of the city, the belief in divine protection secured thereby and the resulting psychological effect on military morale; and first had to be enlightened on the subject by an old man who, of all idioms, chose to speak in Greek.

The view is in fact advanced by a noted commentator of the

<sup>29</sup> *BJ*, i, x, 9 (214); *Ant.* xiv, ix, 5 (181).

<sup>30</sup> *Ant.* xiv, iii, 2 (41).

Talmud<sup>31</sup> that the pig incident is not to be taken in its literal sense. The Pig in talmudic literature is but a symbol for Rome,<sup>32</sup> whose conquest of Judaea was greatly hastened by the strife between the Hasmonean princes, especially their invitation to Pompey to come and arbitrate between them. It has, however, rightly been objected to this view<sup>33</sup> that the aforementioned talmudic rulings against the breeding of pigs and teaching of Greek point to some real happening, some offensive incident connected in some way with Greek and pigs. On the other hand, the very ruling against the teaching of Greek raises a fresh objection, this time on the basis of a talmudic record, to the accepted notion that Antipater and Hyrcanus were guilty of this offense. The Mishnah states that the decree that no man should teach his son Greek was made at the time of the War of Titus.<sup>34</sup> The talmudic commentators endeavor to obviate this difficulty in various ways. Rashi,<sup>35</sup> anachronistically enough, makes Titus a contemporary of Hyrcanus II.<sup>36</sup> The *Tosafists*,<sup>37</sup> correctly placing Hyrcanus more than a century before the destruction of the temple by Titus, suggest that the ruling against

<sup>31</sup> Cf. Eidlis' *Novellae ad Sotah* 49b, s. v. *polmos*.

<sup>32</sup> Enoch 89.12; B. T. Pes. 118b; *ARN* xxxiv, 3; *GR* 65; *LR* 13, end; *ŠR* iii, 4; *QR* i, 9; *MT* lxxx, 363. The identification of the Fourth, unnamed, Beast in Dan. 7.7 with the swine, *loc. cit.*, is probably connected in some way with the Talmudists' habit — B. T. Shabb. 129b; *PR* 111b — not to mention the name of this animal. It is suggested in *LJ*, V, 294 note 162, that the designation of Esau (Rome) as "swine" was originally not meant as an expression of contempt but derives from the standard of the Roman legion stationed in Palestine which had as its emblem a boar.

<sup>33</sup> Cf. *Tif'ereth Yisra'el ad B. K.* vii, 7, note 44.

<sup>34</sup> *Sotah* ix, 14. The reading *ṭītus* in the edd. and the Kaufmann Codex of the Mishnah is already attested by Rashi and other early commentators. The respective variants *'ṭits* and *'stits* in the BM MSS Or. 4842 and Or. 2392, are manifestly but corruptions of the same. The variant *ḵits* — attested by but one single MS cited in *ha-Mazkir*, VII, 22 (unless *ḵitm* in the Cambridge MS of the Mishnah, ed. W. H. Lowe, is a corruption of the same) — is said to stand for *Quietus* and is accepted as the correct original by a whole galaxy of scholars; cf. Grätz<sup>1</sup>, III, 538; Grätz<sup>2</sup>, IV, 439-49; Kohut, *Aruch Completum*, s. v. *ṭītus*; Ratner, *SOR* xxx, note 77; Goldschmidt, German translation of the Talmud, note 237 *ad loc.*; Krauss, *loc. cit.*, and *Jew. Enc.*, X, s. v. *Quietus*; Gabriellov, text-critical notes *ad loc.* in the *Romm quarto Mishnayoth*. Yet if, accordingly, the ruling against Greek is set in "the War of Quietus," the alleged Jewish rising in Palestine towards the end of the reign of Trajan, the discrepancy in view becomes even greater.

<sup>35</sup> *Ad Sotah* 49a, s. v. *bpolmos*; cf. also Tos. 'A. Z. 23b s. v. *bḵšu*.

<sup>36</sup> There is a still more serious anachronism in Rashi's placing of Titus and Hyrcanus 52 years after Vespasian; apparently on the basis of a faulty "Titus" instead of "Quietus" in his copy of *SOR*, *loc. cit.*

<sup>37</sup> R. Shimshon *ad Peah* i, 1; Tos. B. K. and Men., *loc. cit.*, s. v. *'rur 'dm*.



the teaching of Greek at the time of Hyrcanus and Aristobulus found no general acceptance and, for this reason, it became necessary to reiterate it at the time of Titus; or that the "curse" in the former instance on any man who should teach his son Greek, leaving it to the conscience of every father to decide whether or not he should conform, was replaced in the latter instance by a more stringent definite "decree" against such teaching. These suggestions can hardly be accepted as a satisfactory solution of the problem under consideration. Apart from their conjectural nature,<sup>38</sup> without support in the talmudic sources, they solely deal with the contradiction between the Mishnah record of the ruling against the teaching of Greek at the time of Titus and the record of an earlier ruling of this kind. That Mishnah record, however, is not the only talmudic dictum at variance with placing the pig incident in the siege of Jerusalem by Hyrcanus.

In a report recorded twice in the Palestinian Talmud,<sup>39</sup> but strangely enough apparently disregarded by talmudic commentators and modern historians alike, there is mention of two incidents that have a bearing on the subject of the present inquiry:

a) The *Amora* R. Joshua b. Levi reports that "in the days of the Kingdom of Greece the besieged in Jerusalem daily lowered over the walls two baskets of gold and obtained in exchange two lambs (required for the *Tamid* offering). One day they were given two goats (which are not suitable for the *Tamid*).<sup>40</sup> At that time, the Holy One blessed be He enlightened their eyes and they discovered two duly examined lambs in the Chamber of Sacrificial Lambs.<sup>41</sup> At that time did it happen that, as reported by R. Judah b. Abba,<sup>42</sup> the offering of the *Tamid* was delayed till the fourth hour (9-10 a. m.)."

b) R. Levi<sup>43</sup> reports another incident, with a similar beginning. "In the days of this Wicked Kingdom (Rome), the besieged in Jerusalem likewise lowered daily over the walls two baskets of gold and

<sup>38</sup> Still more puzzling is the assumption in Tos. B. Ḳ., *loc. cit.*, that the ruling against pig breeding was likewise reiterated at the time of Titus; cf. *MŠ ad Soṭah*, *loc. cit.*, s. v. *wšl'ylmd*.

<sup>39</sup> Ber. iv, 7b; Ta'an. iv, 68d.

<sup>40</sup> Ex. 29.38-41; Num. 28.3-4, 7; B. T. Pes. 57a, Ker. 28b; cf. M., *Ma'aseh ha-Ḳorb.* i, 15.

<sup>41</sup> Tam. ii, 3; Mid. i, 6.

<sup>42</sup> This reading in the P. T., *loc. cit.*, and Yeb. xiii, 13b, in agreement with that in several MSS and the *ed. pr.* of Eduy. vi, 1, is preferable to the variant R. J. b. B a b a in the current printed edd. of the Mishnah.

<sup>43</sup> Levi b. Sisi of the 2nd century C. E., according to Frankel, *Mebo*, 91b, and others, the father of R. Joshua b. Levi; or Levi b. Laḥma of the 3rd century C. E.

obtained in exchange two lambs.<sup>44</sup> In the end they lowered over the walls two baskets of gold and obtained in exchange two pigs. Hardly half way up, the pig thrust its paws against the wall. A tremor shook the wall, and the pig leapt 40 *parasangs* from the Land of Israel. At that time, on account of our iniquities, the *Tamid* ceased and the temple was destroyed."

The report about the latter of these two incidents is so strikingly similar to the report in the Babylonian Talmud about the pig incident at the siege of Jerusalem by Hyrcanus that there can be little doubt that both reports in question concern one and the same incident. These two reports are, however, patently incompatible as regards the historical background of the incident. For the siege of Jerusalem by Hyrcanus with the support of the Nabataean king, Aretas, prior to Pompey's interference in the affairs of Judaea, cannot possibly be placed in the Roman period of Palestine. Besides, the report in the Palestinian Talmud about the pig incident in Roman times clearly states that that incident was soon followed by the cessation of the *Tamid* and the destruction of the temple, an event which occurred over a century later than the siege of Jerusalem by Hyrcanus.

In order to clarify the relation between the various reports hitherto considered, it is first of all necessary to ascertain, if only approximately, at the present stage, the respective dates of the two incidents reported in the Palestinian Talmud. The historical background of the first incident is given there as "the days of the Kingdom of Greece." This phrase is rather vague. It is well known that in the course of the epoch of Grecian rule in Palestine and the lands adjacent to it, with Palestine at times as an apple of contention between the Ptolemies and the Seleucids, Jerusalem had an agitated history and endured siege on more than one occasion.

The siege of Jerusalem by Ptolemy I Soter in 320 B. C. E.<sup>45</sup> or by Antiochus VII Sidetes in 134 B. C. E.,<sup>46</sup> or, for that matter, any other of the frequent stormings of the city in the period between these two outstanding sieges, may equally well be regarded as the background of the incident with the sacrifices. No record, however, is extant of any

<sup>44</sup> So in P. T. Ber., *loc. cit.*; so quoted also from P. T. Ta'an., *loc. cit.*, by R. Hananel *ad* B. T. Ta'an. 28b; the variant "two goats" in the extant text of P. T. Ta'an., *loc. cit.*, is due to scribal error.

<sup>45</sup> *Ant.* xii, i, 1 (4-6); *Contra Ap.* i, 22 (210); Appian, *Syr.* 50; *FHG* III, 196; R, 42; cf. also Krauss, *loc. cit.*

<sup>46</sup> *Ant.*, xiii, viii, 2 (236-44); *BJ* i, ii, 5 (61); *FHG* III, 712; R, 56-9, 136, 206.

incident in the course of all this period in any way resembling the incident reported in the Palestinian Talmud.<sup>47</sup> Considering this silence of the sources, one may assume with reason that the crucial phrase "in the days of the Kingdom of Greece" need not necessarily be restricted to the epoch of Grecian rule in Palestine but may equally embrace the epoch subsequent to it when outside Palestine the diadochic kingdoms were still holding their ground. It is a matter of common knowledge that whilst Judaea achieved her independence from Seleucid rule in the early years of John Hyrcanus, with the death of Antiochus VII Sidetes in 128 B. C. E.,<sup>48</sup> Syria continued to be ruled by the Seleucidae until 65 or 64 B. C. E. when Pompey deprived Antiochus XIII Asiaticus of his kingdom and reduced Syria to a Roman province.<sup>49</sup> This event appears to be alluded to in the talmudic reference to the Roman seizure of power "in the days of the Greeks."<sup>50</sup> In view of this, no serious anachronism is in any way involved if the siege of Jerusalem by Hyrcanus II and Aretas, at a time when Pompey was — or was thought to be — still engaged in the liquidation of his affairs in Syria,<sup>51</sup> is spoken of in the Palestinian Talmud as an event "in the days of the Kingdom of the Greeks." It appears highly probable that this is indeed the case if it is considered that the report there about the incident in question bears some similarity to Josephus' report about the incident at the siege by Hyrcanus. In both reports alike, the besiegers, whilst offering no scurrilous affront to the temple, fail to keep their promise. They collect the stupendous price readily given by the besieged and withhold the required sacrifices. Nor is it unlikely that Hyrcanus, or rather his evil prompter Antipater, should have been guilty of *this* offense. An interruption of the daily sacrificial

<sup>47</sup> The desecration of the temple by Antiochus IV, Epiphanes, or the sacrifice presented by Antiochus VII Sidetes, *loc. cit.*, is obviously not to be connected with the incident in view.

<sup>48</sup> *Ant.*, xiii, ix, I (254).

<sup>49</sup> Appian, *Syr.* 48–9; Justin, xi, ii, 3; Plutarch, *Pomp.* 638–9.

<sup>50</sup> B. T. 'Abodah Zarah 8b. The same passage mentions the Roman seizure of power 26 years later "in the days of queen Cleopatra." The event alluded to has been identified with Octavian's victory over Cleopatra in the Battle of Actium in 31 B.C.E. Cf. Elmsley, in Robinson's *Texts and Studies*, VIII, 2, p. 21, quoting Lewy, *Philologus*, LII, 733. The BM copy of Lewy's work has, unfortunately, been destroyed. I have likewise been unable to have access to *Römische Feste*, the monograph by H. Blaufuss on the Roman Festivals in the Tractate 'A. Z.

<sup>51</sup> *BJ* i, vi, 2 (127); *Ant.* xiv, ii, I (29). It is not easy to determine the precise date of Pompey's settlement of the affairs of Syria. It was probably gradual, partly before the events in Judaea and partly after them; cf. Clinton, *Fasti Hellenici*, III, 346, note a.

service, with its deleterious effect on the morale of the besieged, will have been of no mean advantage to the besiegers. At the same time, they will have feigned innocence so as to avoid the charge of impiety. They will have claimed that the unfortunate substitution of goats for lambs was due to inadvertency, or that the goats were meant for some gratuitous sacrificial offering other than the *Temidim*. Nonetheless, the incident will have been tenaciously remembered — and held up on occasions against Antipater's descendants, the Herodians. One such occasion seems to be reflected in an *aggadah* about a king and a queen who once had a dispute. The king said goats were better than lambs; the queen said it was the other way round. They resolved to consult the highpriest Issachar of *Kefar Barqai*, an expert in sacrificial animals. The highpriest came and with a gesture of his hand hinted that if goats were better they would equally be fit for the *Tamid*. The enraged king took the hint for *lèse-majesté* and gave command for the offending highpriest's right hand to be cut off.<sup>52</sup>

Whilst the identity of the *dramatis personae* in this extraordinary *aggadah* is doubtful, its general atmosphere shows clearly enough that the incident is set in the Herodian epoch.<sup>53</sup>

It has now been seen that Josephus' version of the incident with the sacrificial animals at the time of Hyrcanus is to some extent supported by reminiscences in talmudic tradition. On the other hand, the talmudic report about the pig incident at the time of Hyrcanus is irreconcilable both with Josephus' version of that incident and with the talmudic report about the pig incident in Roman times. Nor is it possible to reduce the extent of the discrepancy between the two talmudic reports, by interpreting the crucial phrase "in the days of this Wicked Kingdom (Rome)," in the sense of the early years of Roman rule in Palestine. The siege and conquest of Jerusalem by Pompey in 63 B. C. E. is clearly out of the question. For it is known that in the days of that siege, including the very day in which the temple was taken by

<sup>52</sup> B. T. Pes. 57a-b, Ker. 28b.

<sup>53</sup> The dispute in question seems connected with the story in B. T. Pes. 88b. The king and queen in both stories are identified by Derenbourg (*Essai*, 210-11) with Agrippa I and his wife Cypros; and by Büchler (*Synedrion*, 129, note 116) with Agrippa II and his sister Berenice. The MS variant Simeon b. Gamaliel in lieu of Gamaliel in the printed texts — cf. *DS ad loc. cit.* — strongly supports Büchler's view. Rashi *ad Pes. 57a s. v. mlk'* thinks of a Hasmonean king, apparently Alexander Jannaeus, probably on the basis of the variant *yny mlk'* in Ker. 28b. The name *Yannai* is however omitted in the Munich MS, as also in the early Bodleian Fragment of Ker. (ed. Schechter-Singer, Cambridge, 1896). Besides, *Yannai* in talmudic literature may denote a Herodian king; cf. Derenbourg, *loc. cit.*, 248, note 2, Büchler *loc. cit.*, 55, 138, note 123.

storm, there was no dearth of sacrificial animals. Nor did the *Tamid* cease at that time. For Pompey gave order that the daily sacrificial service in the temple be continued without interruption.<sup>54</sup> In 40 B. C. E., when the Parthians invaded Judaea and Antigonus re-established Hasmonean rule, the temple did not escape unscathed. Yet the sporadic skirmishes in its vicinity<sup>55</sup> are hardly the probable background of the pig incident. The regular siege of Jerusalem in 37 B. C. E. by Herod and Sosius might seem a more likely background. It is in fact recorded that at the time of that siege the partisans of Antigonus, confined within the upper city and the inner court of the temple, requested Herod's permission to bring in beasts for the sacrifices; a request which he at first granted and later refused.<sup>56</sup> Yet it is likewise out of the question that the pig incident should have occurred at that siege. Expecting to be in the end recognized by the Jews as their king, Herod carefully avoided giving offense to their religious susceptibilities. By the use of entreaties, threats and even of force,<sup>57</sup> he prevented his Roman allies from offending Jewish feeling by entering the temple precincts contrary to Jewish ruling.<sup>58</sup> For whatever his ruthlessness and the unsavory record of his later private and public life, Herod emulated at first his father's cautious policy and avoided outrage unless he thought it to be of advantage to his career. It is therefore not to be imagined that he should have permitted, let alone have been responsible for, a grave insult to his future Jewish subjects which he must have known they would never forgive him.

By this process of elimination it has become clear that only one siege of Jerusalem may come into consideration as the background of the pig incident recorded in the Palestinian Talmud: the final Roman siege of the city at the end of the campaign of Vespasian and Titus. As has been stated, it is in fact stated there that that incident was a prelude to the cessation of the *Tamid* and the destruction of the temple. An insult of this kind to Jewish feeling by Titus, infuriated by the Jews' long and stubborn resistance and resolved to break it by whatever means, is not at all unlikely. Contrary to Josephus' efforts to present his master as holding the Jerusalem temple in deep respect and to exonerate him from personal responsibility for its destruction,<sup>59</sup>

<sup>54</sup> *BJ*, i, vii, 4-6 (148-53); *Ant.* xiv, iv, 3-4 (65-73).

<sup>55</sup> *BJ*, i, xiii, 3 (253); *Ant.* xiv, xiii, 3-4 (335-9).

<sup>56</sup> *Ant.* xiv, xvi, 2 (477-8).

<sup>57</sup> *Ibid.*, 3 (483); *BJ* i, xviii, 3 (354).

<sup>58</sup> *Kel.* i, 8.

<sup>59</sup> *BJ*, Preface 4 (10) and 11 (27); *ibid.*, vi, iv, 3 (237-41), vi, 2 (324-50); *et passim*.



it is known from the report of Sulpicius Severus,<sup>60</sup> accepted by the majority of modern scholars as more trustworthy,<sup>61</sup> that Titus was the prime mover of the destruction. Whatever the justification for the epithet *delicium generis humani* bestowed on him by heathen admirers and flatterers, the talmudic *aggadah* had its own good reason to speak of him as "Titus the Wicked."<sup>62</sup>

In view of the foregoing, it is hardly necessary to stress that the report in the Palestinian Talmud where the pig incident is apparently laid to the charge of Titus is more worthy of credence than the other report where it is laid to the charge of Hyrcanus or Antipater. As has been seen, the former report is supported by the record in *Sotah* ix.14 of a ruling against the teaching of Greek at the time of the War of Titus. Additional support for this setting of the pig incident may be seen in a number of other narratives which, whilst differing *inter se* and manifestly anachronistic in varying degrees, agree in setting their respective versions of the pig incident against the general background of the final siege of Jerusalem by the conquering heathen enemy. In *Aboth de R. Nathan* iv.5 it is related that, as his final act at the end of the siege, Vespasian catapulted a swine's head across a breach in the wall to the altar of the burnt offerings. Whilst Vespasian and Titus are fused here, somewhat anachronistically,<sup>63</sup> into one, the setting of the incident, the final Roman siege of Jerusalem, remains the same. The incident has a similar setting in its version in the *Targum Sheni* of Esth. 1.3: "When the gate of the Temple beheld itself faced by an unclean people, it shut itself and would not open. In vain did the hostile armies bring 360 camel loads of iron axes in order to force the outer wall of the Temple; as it swallowed up all the battering rams. Finally, one *prnitus*<sup>64</sup> brought a swine, slew it and sprinkled some of

<sup>60</sup> II Chron. 30.6; R, 324.

<sup>61</sup> Bernays, *Ueber die Chron. d. Sulpicius Severus*, 49–61, adduces contemporary evidence by Tacitus and the poet Valerius Flaccus about Titus' rôle in the siege of Jerusalem. Cf. also the literature in LCL, Josephus II, Thackeray's Introduction, xxiv–xxv. For further light on Titus' conduct of the siege, cf. Dio Cassius, lxii, 6; R, 193.

<sup>62</sup> B. T. Giṭ. 56b; GR, 10; LR, 22; NR, 18; KR, 5; T IV, 99; *Pirke de R. Eli'ezer*, 49.

<sup>63</sup> This is possibly no anachronism at all; the whole campaign being named after Vespasian who commenced it. Titus is likewise not mentioned in the Munich MS text of *Sotah* ix, 14.

<sup>64</sup> The spelling of this name varies: the vulgar texts have *prnitus*; the Pentateuch with the Five Rolls, ed. Bale, 1606, has *prntus*; the same is reproduced in ed. Lagarde, 234 line 11; *Leshon Zahab* (a Hebrew translation of the *Targum Sheni*, ed. Constantinople, 1732) has *pruntus*. All these are evidently variations of the same name. For a more radically different variant, cf. *infra* note 68.

its blood upon the Temple. Thus defiled, it opened: and so the enemy entered the Temple." In respect to several details, as for instance the subsequent description of the scene with the keys of the temple thrown towards the sky,<sup>65</sup> this version so closely agrees with the aforementioned version in *ARN* as to appear but a variant of one and the same legend. This is also evident from the offender's name *prnitus* which — whether it be identified with Fronto, a member of Titus' supreme council of war,<sup>66</sup> as according to Perles,<sup>67</sup> or be corrected with Ginzberg<sup>68</sup> into *ptirnus* and transliterated Paternus — has a doubtless Roman tinge. Admittedly, though, the narrative in *Targum Sheni* is set in the Babylonian siege of Jerusalem. This anachronism may be due to a confusion of the Second Temple with the First or, more likely, it is in line with the general tendency in apocalyptic and midrashic literature where Babylon stands for Rome.<sup>69</sup> The same is the case with the *Targum* of Lam. 2.9 where the gates of Jerusalem are said to have sunk into the ground at the approach of the Babylonians in consequence of their slaying a swine and sprinkling its blood thereon. This same motive of swine's blood sprinkled on the wall rendering it open to attack, also occurs in the Judaeo-Persian Apocalypse of Daniel<sup>70</sup> where the incident is likewise set in the Babylonian siege of Jerusalem: "Day by day the besieged placed a *dareikon* in a basket, lowered it with an attached cord over the wall into the camp of Nebuchadnezzar, and thus purchased a sacrificial lamb. One day the Chaldeans found out for what purpose the lambs were purchased. Henceforth, they sold them no lamb but deceived them. Instead of placing a lamb into the basket to be pulled up over the wall, they placed a pig therein. As it was half way up, they shot at it with arrows. When in consequence its blood squirted o. to the wall, it split in twain." There can be no doubt that all these legends are modelled on reminiscences of some

<sup>65</sup> For further parallels of this, cf. Syriac Apocalypse of Baruch 10.18; B. T. Ta'an. 29a, San. 96b; cf. also *LJ* VI, 393, note 29.

<sup>66</sup> *BJ*, vi, iv, 3 (237-42).

<sup>67</sup> Schwarcz-Festschrift, 305.

<sup>68</sup> *LJ* VI, 394. Schürer<sup>2</sup> I, 544, note 5, on whose authority Ginzberg thinks of a procurator of Judaea named *Paternus*, is rather doubtful about the matter. The variant '*apastanus*' (with super-linear Babylonian vocalization) in the BM MS Or. 1476, fol. 98b, probably a corruption of '*aspasyanus*' (*Vespasian*) — *i. e.* the name of the offender in the *ARN* version of the incident — seems preferable to the respective identifications by Ginzberg and Perles.

<sup>69</sup> IV Ezra 3.2; Syriac Apocalypse of Baruch, *passim*; cf. also *LJ* VI, 391 notes 24 and 26.

<sup>70</sup> Hebrew translation by Kaplan, in *BH* V, 117 ff.; German translation by Zotenberg, in Marx's *Archiv für wissenschaftliche Erforschung d. A. T.*

report like that in the Palestinian Talmud about the pig incident in Titus' siege of Jerusalem.<sup>71</sup>

Lastly, a *halakhic* tradition about the ban on pig breeding likewise seems to point to this late date of the incident from which it is assumed to have arisen. The *Tanna* R. Eliezer b. Hyrcanus had the reputation of a conservative scholar averse to *halakhic* innovations of any kind. Faithfully handing down to his disciples whatever tradition he had received from his teachers, he was reluctant to endorse recent rulings not sanctioned by tradition. In adherence to this main principle of his, he declined to give a clear answer when questioned, *inter alia*, whether or not pig breeding was permissible.<sup>72</sup> Now the date of this episode may be ascertained with a reasonable degree of accuracy. R. Eliezer was one of the two disciples in whose company Rabban Joḥanan b. Zakkai escaped from besieged Jerusalem before its capture by the Romans.<sup>73</sup> His non-committal silence, as to the ruling against pig breeding, is reasonable enough if that ruling was decreed at Titus' siege of Jerusalem: possibly by the *halakhic* authorities remaining behind when Rabban Joḥanan b. Zakkai and his disciples had left. But it passes comprehension if that ruling was decreed at the time of Hyrcanus and Aristobulus: in which case it will have been a ruling of old standing, with more than a century's tradition, at the time of R. Eliezer.

As for the report in the Babylonian Talmud that places the pig incident at the time of Hyrcanus II, a setting now seen to be unacceptable, it is possibly a condensed account that fuses into one the two incidents in connection with a scarcity of sacrificial animals in times of siege as related in the Palestinian Talmud. The present writer has shown elsewhere<sup>74</sup> that an epitome of this kind, telescoping a series of events into one single episode, is not without parallel in talmudic literature. More likely, perhaps, the report in question is in its present form but a mutilated fragment from a larger document that comprised several episodes in the Roman phase of the epoch of the Second Temple. Originally it may have comprised a record of both the incidents reported in the Palestinian Talmud as also of the murder of Onias reported by Josephus: its present fragmentary form being possibly due to omission through *homoioteleuton*, an "old man" figuring

<sup>71</sup> According to Ginzberg, *loc. cit.*, 393, the legend in the Apocalypse of Daniel "undoubtedly follows B. Ḳ. 82b." It is closer, however, to the version in P. T., *loc. cit.*

<sup>72</sup> Tos. Jeb. iii, 4. Tos. B. Ḳ. viii, 17 has to be understood in the same sense.

<sup>73</sup> B. T. Giṭ. 56b; *ARN* iv, 5; *TR*, 67. These narratives, though of a legendary character, have an historic kernel accepted by modern historians.

<sup>74</sup> Cf. Nicanor Gate, *JJS* III, 27.

in both the incidents. The original version, with the missing part hypothetically restored and enclosed between brackets, may have read as follows: כשצרו מלכי השמונאי זה על זה היה הורקנוס מבחוץ וכו' ומעלין להן תמידין היה שם זקן אחד שהיה מכיר (ו כל איש לצדיק וחסיד ומלומד בנסים חוני המענל שמו שאמרו עליו שפעם הוריד בתפלתו גשמי רצון ונדרבה כשראה חוני מלחמת האחים עמד ונחבא וכו' אחזרו אנשי הורקנוס וגזרו עליו וכו' כיון ששמעו כך מיד עמדו עליו וסקלדו ושוב בימי מלכות הרשעה כשצרו על ישראל היה טיטוס הרשע מבחוץ ויוחנן מגוש חלב ראש הקנאים מבפנים בכל יום ויום היו משלשלין להן דינרים ומעלין להן תמידין היה שם זקן אחד שהיה יודע) בחכמת יונית לעז להם וכו'.

This conjectural reconstruction is perhaps supported by the fact that the expression *hyh mkir* in the sense of the command of a language, is without parallel in talmudic literature; the usual expression being *hyh yod'*.<sup>75</sup> Further support may be seen in the very manner in which the report in question is cited, in B. T. Soṭah, *loc. cit.*, as an explanation of the origin of the ruling in the Mishnah against the teaching of Greek at the time of the War of Titus: for unless it be assumed that already the compilers of the Babylonian Talmud thought of Hyrcanus II and Titus as contemporaries, an anachronistic misconception not to be ascribed to them without compelling reason, the version of the report accessible to them must still have comprised a record of both the incidents in question.

The Old Man in the first incident, Onias the Circle-drawer, is well known from the talmudic narrative already referred to. In the last few years he has been an especially familiar figure in the world of biblical scholarship: some scholars having identified him with the enigmatic Teacher of Righteousness in the Zadokite Fragments and several sectarian documents among the Dead Sea Scrolls. As for the other Old Man, the *spiritus rector* of the pig incident, his identity must remain a matter for speculation. The subservience of Josephus to Titus at the siege of Jerusalem is abject enough to cast some suspicion on him. On the very day when the *Tamid* had ceased,<sup>76</sup> Josephus presents himself as reasoning, by Titus' command, with the defenders of the temple that they themselves and not the Romans are responsible for the discontinuation of the sacrificial service;<sup>77</sup> a protestation implying somehow that Josephus has withheld some details of that

<sup>75</sup> Cf. P. T. Sheḥ. v, 48d; B. T. San. 17a and parallels. This hypothesis of an omission through *homoioteleuton* fails, however, to account for the juxtaposition of the two reminiscences "At that time did they declare . . .," "At that time did it happen . . ."; which makes the impression of one single incident.

<sup>76</sup> *BJ*, vi, ii, 1 (94).

<sup>77</sup> For a previous spectacle of Josephus in the rôle of Lord Haw-haw, *vid. ibid.*, v, ix, 3-5 (382-419).

episode. If the suspicion of his personal share in it be correct, the pro-Roman Jewish historian will have had reason enough to suppress an incident as little to his own credit as to that of his Roman master.<sup>78</sup> It will also be as clear as daylight why he should have chosen to speak in Greek, when suggesting to Titus to substitute a pig for the sacrificial lambs wanted by the Jews, in preference to other languages. Josephus was fairly fluent in Greek<sup>79</sup> but, like his countrymen, does not seem to have known Latin. Titus, on the other hand, is unlikely to have taken the trouble of learning either Aramaic or Hebrew. Consequently, conversations between Titus, the Roman, and Josephus, the Jew, had to be conducted in Greek, the *lingua franca* of the ancient Orient. There is, however, a fatal objection to this hypothesis. Josephus, 56 years of age in the 13th year of Domitian<sup>80</sup> (93 C. E.), was still in his early thirties at the time of Titus' siege of Jerusalem. He could therefore hardly have been referred to as an *old* man. Is perhaps the term *zaken* in the talmudic report a title rather than an indication of advanced age? One cannot know. The evidence at hand is insufficient for a definite conclusion that Josephus was indeed guilty of that offense.

It remains now to ascertain the precise date of the pig incident. According to the report in the Palestinian Talmud, as has been stated, that incident led to the cessation of the *Tamid*. This report is quoted there in a comment on the Mishnah, Ta'anith iv.8,<sup>81</sup> where the cessation of the *Tamid* on the 17th day of *Tammuz* is mentioned among the five sad happenings commemorated by the annual fast on that day. It is clear from this that the *mishnic* date is assumed in the Palestinian Talmud to be the date of the cessation of the *Tamid* in the Second Temple. It is probable that the same is also referred to in the dictum in the Babylonian Talmud, Ta'anith 28b, that the cessation of the *Tamid* on the 17th of *Tammuz* is known from oral tradition (*gmr'*). This is in fact the view of R. Ḥananel, in his commentary *ad loc.*, on the basis of the mentioned passage in the Palestinian Talmud. Josephus' eyewitness account of the cessation of the *Tamid* on the 17th of *Panemus*<sup>82</sup> (*Tammuz*), three weeks before the incineration of the temple on the 9th and 10th of *Lous* (*Ab*), decisively corroborates the

<sup>78</sup> Also the cessation of the *Tamid* ἀπορία ἀνδρῶν, *ibid.*, vi, ii, 1 (94), — unless the correct text is ἀρῶν, cf. Thackeray, *ad loc.*, may be wilful misrepresentation on the part of Josephus.

<sup>79</sup> *Ibid.*, Preface, 1 (3); *Ant.* xx, xi, 2 (262–3); *Contra Ap.* i, 9 (50).

<sup>80</sup> *Ant.* xx, xi, 3 (267).

<sup>81</sup> Cf. also *Megillath Ta'anith*, 13.

<sup>82</sup> In Josippon, 92, the date, strangely enough, is given as the 6th of *Sirwan*, the feast of *Shabu'oth*.



accuracy of this tradition. On the other hand, Maimonides' view that the fast on the 17th of *Tammuz* commemorates the cessation of the *Tamid* in the First Temple,<sup>83</sup> has no support either in the scriptures or in the talmudic texts extant.<sup>84</sup>

Regarding the year in which the pig incident occurred, *i. e.* the year in which the Second Temple was destroyed, there is a well known discrepancy between the general and the traditional Jewish way of dating. The destruction of the Second Temple is generally placed in the year 70 C. E., whilst medieval Jewish writers place it in 3828 or

<sup>83</sup> *Hil. Ta'an.* v, 2.

<sup>84</sup> *PR*, 130b, possibly supports M.'s view. It cannot, however, have been his source; as evident from his equally strange dating, *loc. cit.*, of the Breaching of the City (Jerusalem) by the Romans, prior to the fall of the Second Temple, on the 17th of *Tammuz*. In *P. T. Ta'an.* iv.68c and *PR*, *loc. cit.*, the Breaching by the Babylonians is dated on that day; contrary to the scriptural dating of that event on the 9th of *Tammuz*. It is also clear from the dates in *B. J.* v.vii.2 (302), viii.1 (331), vi.1.3-7 (67-8), ii.1-7 (94, 149) that the Romans breached no city wall on the 17th of *Tammuz*. M.'s dating is apparently based on the reference to "the Breaching of the City . . . the 2nd time on the 17th (of *Tammuz*)" in *B. T. Ta'an.* 28b. That dictum, however, may allude to the capture of Jerusalem by Pompey or by Herod and Sosius, captures dated in *Josippon* 39 and 49 on the 17th of *Tammuz*. Yet, also the trustworthiness of this dating in *Josippon* is open to question. It is possibly nothing more than an attempt at correcting Josephus' cryptic dating of these captures "on the 3rd month on the day of the fast," *Ant.* xi.viv.3 (66), xvi.4 (487-8). The date of Pompey's capture of Jerusalem is modified in *B. J.* i.vii.4 (149) and v.ix.4 (397) as "the 3rd month of the siege"; whilst Herod is variously said to have taken Jerusalem after a siege of 5 or 6 months, *ibid.* i.xviii.2 (351) and v.ix.4 (398). This is evidently incompatible with the report in *Ant.* xiv.xvi.4 (487) that Herod captured the city on the same day on which Pompey had captured it 27 years before. (Cf. Clinton, *Fasti Hellenici*, III, 299-300, on further inconsistencies in Josephus) Zeitlin (*Meg. Ta'an.* 26-7; Dropsie College ed. of I Maccabees, 254-6; *JQR*, NS, XLII, 153, note 84) attempts to solve this knotty problem as follows: "Pompey captured Jerusalem in 63 BCE on the 9th of *Tammuz* which was a fast day; Herod and Sosius in 37 BCE on the 10th of *Tebeth* which was also a fast day. Josephus' 'same day' refers to the day of the week. In 63 the 9th of *Tammuz* fell on Tuesday or Wednesday, in 37 the 10th of *Tebeth* fell on Wednesday or Thursday." This does not do justice to the actual words of Josephus. Nor is it an established fact that prior to the fall of the Second Temple *Tammuz* 9th and *Tebeth* 10th were observed as fasts; *B. T. Rosh haShanah* 18b makes the impression that they were *not* so observed. Nor is there a trace of intercalation in regular intervals, prior to the fixed Jewish calendar traditionally held to have been introduced as late as 360 C. E., an absolutely essential prerequisite to the calculation Zeitlin claims to be able to make. On the other hand, equally unfounded is the claim of Dupont-Sommer (*Aperçus préliminaires*, 38 ff.) that Pompey took Jerusalem on the Day of Atonement, a date allegedly alluded to in *DSH Col. XI*, line 7 (*Hab.* 2.15). In view of the perplexing variety of the interpretations of Josephus' and other ancient writers' dating of Pompey's capture of Jerusalem — cf. the extensive literature listed in Rowley's recent *Zadokite Fragments and Dead Sea Scrolls* (53, note 4) — it is quite impossible to unravel this tangled knot.

3829 A. M., i. e. 68 or 69 C. E.<sup>85</sup> This discrepancy is probably only an apparent one, due to a confusion of the various kinds of the Jewish Era of Creation. It is stated in fact, in the *Sefer ha-Ma'or*, *ad* Abodah Zarah 9a by R. Zerahyah Gerondi, that in the terms of the current Jewish Era of Creation the date of the fall of the Second Temple is 3830 A. M., i. e. 70 C. E.

To sum up the results of the preceding investigation, the "Related Prohibitions: Swine Breeding and the Study of Greek" originated from an episode on the 17th of Tammuz 3830 A. M., also otherwise commemorated by the annual Fast of Tammuz. The connection of those prohibitions with that last chapter in the tragic Jewish struggle against the Romans leading to the fall of the Second Temple, their origin from what was keenly felt as a studied insult to both the religious and the national sentiments of Jewry, well accounts for the anathema, "Cursed be the man who will rear pigs! and cursed be the man who will teach his son Greek!"

It would be of considerable interest to trace the extent of the practical observance of those two prohibitions in the course of subsequent Jewish history. That further investigation would, however, exceed the limits of the present study and must therefore be held over for some other occasion.

<sup>85</sup> Cf. Rashi and Tos. *ad* 'A. Z. 9a; *Sefer ha-Ibbur* III, 8; *Hilkhot Shemittah* X, 4; *Yesod 'Olam* IV, 16.



# THE PHILOSOPHY IMPLICIT IN THE MIDRASH

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## I

WHAT Agada or Midrash is the Midrash itself states. In a conspicuous utterance concerning its use and function it characterizes itself as Benedictions and Consolations, *ברכות ונחמות*. Primarily then, and in its inner core and essence, it is consolation, that is, a feeding of the life-impulse when harassed and threatened by tragic circumstance. Tragic circumstance was the special environment, unexampled suffering the special historic lot, of the Jew. And to guard against despair because of the unremitting enemy from without, and against the temptation to despair because of doubt and weakening faith from within, the Jewish genius prepared for itself, alongside of the code of law which governed its daily living, a great wellspring of assurance and re-assurance, of comfort and ground for faith. That is what the Agada aims to be alongside of the Halakah, the "faith" alongside the "works," which in the Christian world may be contrasted but which here are the twin sources of Jewish being and the twin pillars on which it equally rests.

There are two versions of our initial text and they offer interesting variants which throw light upon each other. In the older version it reads as follows. "In the former days when people had change in their pockets (i. e. when things were leisurely) they liked to listen to some word from Mishnah and Talmud; but now that money is gone, *and especially since we are sick because of the ruling power*, *וביותר שאנו חולים*, מן המלכות, people want to hear something *from the Bible and from Agada*" (Pesikta 101b). The later version, occurring in a later Midrash and possibly after the situation had hardened, has the same text running as follows. "In the past people had some change in their pocket and a man liked to listen to Mishnah and Halakah and Talmud; but now that money is gone, *and especially since we are sick through the oppression*, *וביותר שאנו חולים מן השעבוד*, nobody wants to hear anything but *words of Benediction and Consolation*" (Cant. R., ed. Wilna, Romm, 15a, Col. 2). The sickness remains the same, through persecution by the מלכות or categorically through the oppression, it is in fact

perennial; and the healing or therapeutic is in the one case designated as Bible and Agada and in the other as Blessings and Consolations: clearly then the two sets of terms are synonymous.

Consolation however usually carries with it a mere sense of soothing, a mood or tone of feeling without hard body or substance. That is quite definitely not the case here. The consolation and healing offered by Agada to the Jewish people on its hard road is solidly grounded in a powerful pattern of thought and intellect, a world-view and philosophy it might almost be said if these terms were not so academic, in any case a set of themes and imagery and ideas forged in the crucible of a unique and terrible experience and suffused throughout by earnest thinking.

The Midrash is fully aware of the greatness of this its undertaking. It does not play modest. "Dost thou wish to know him who spake and by whose word the world came into being? Study Agada: for through such study thou canst get to understand the Holy One blessed be He and to follow in his ways" (Sifré 85a). These utterances are not peripheral or casual. The first is ascribed to Levi and Yizhak, two central figures in the creation of Agada. And the second so self-conscious statement which we have just quoted stems from the Sifré, one of the oldest and most basic of the Midrashim.

Now the name for the science and study of God and his ways, is Theology, also Philosophy. Is the Midrash then a Theology and Philosophy? We must remember that these terms are Greek in origin and that the categories of thought which they represent are creations of the Greek genius. In a sense these terms are too ponderous and too pedantic. For while there is the most authentic and mature kind of thinking on all the main topics of life present there, on God and man, on time and event, on suffering and the future, it is present in an atmosphere or medium of freedom and unconstraint, not as a set of propositions to be soberly argued in the schools; but rather as themes and images to guide and influence the listener in all the workings of his mind, and still to retain the fluidity of a story, as of the myths to which Plato resorts when his themes outdistance his concepts. In this way speculations which would have been frowned upon or forbidden if set forth as sober creed in Halakic fashion obtain breathing space and an opportunity for emergence; and the audacities without which there is no greatness of thinking achieve room and possibility of expression. It is a subtle device since it succeeds in capturing freedom and substance of thinking without being tied to the numbered paragraphs of a treatise. With this important reservation or qualification one can say that the Midrash is a repository of a



Jewish Theology and of a Jewish Philosophy of History, formidable as these terms may sound, and strange labels as they may be for the living tenderness of Jewish experience.

Always we are to bear in mind that the origin of Jewish speculation is not leisurely intellectual curiosity. There is a difference between Greek and Jew. "All men desire by nature to know," the opening words of Aristotle's *Metaphysics*, are the words which naturally occur to Aristotle in accounting for the origin of philosophy. Wonder is the emotion, and raising a question is the corresponding intellectual act, whereby philosophy arises, according to the Platonic Socrates (in the *Theaetetus* 155 d, which Aristotle takes over, *Metaph.* 982 b). But for Israel it is an acute experience of suffering and of an agonizing perplexity which releases thought. Israel is in the unique position of regarding itself as the chosen people, the beloved of God, and at the same time knowing itself as the most afflicted people: — how resolve that awesome paradox? What thoughts must it frame about God since obviously the received God-idea is rendered untenable? What kind of a God would they in actual fact fashion under the stress? What God, what no-God, what half-God, what man-God, what all-God? How is man to behave? What is the future and is there a future? And what ground is there for faith?

And why the initial affliction? "Sufferance is the badge of all our tribe," *souffrance*, suffering, — the greatest of poets has made his one Jewish character testify. No truer word was spoken, it was spoken with the clairvoyance and penetration of genius. Suffering is involved in the very character of the career on which Israel was launched, is indeed the badge of Israel whenever true to his course. That career is seen to be inevitably tragic. For the core of Jewish belief is that Israel must bear the Torah from God to the world. But the world is unwilling and resists all three, God, Torah, and Israel, and the protagonist who does the actual bearing must also bear the brunt of the suffering. The whole drama is paradigmatic: it is a prelude or prefiguring or archetype of what must take place henceforth everywhere and by all men of good will if a new and higher order is to emerge as reality. The Torah stands for goodness, for the visions and ideals and values, or light of God in which we see light. God, besides being this light and vision which we behold, is also such power, such real actual power in the universe, as is committed and has already been marshalled for the victory of the good; this power is at present still pitifully small, and that fact entails the drama. The power must be increased, the ideal must be translated into the real; and the active agent in this crucial event is man, who is thus destined for tragic heroism by the very

nature of his situation. Israel, of course, stands for the ideal Israel, and is paradigmatic of the good and brave man anywhere. That the best man must suffer the most, must assume the burdens and sorrows of the world, constitutes the most awesome phenomenon and paradox of the whole spiritual life. God in the full meaning of the term is seen to stand at the end, not at the beginning. "On that day he shall be one and his name shall be one." *He must be made one*, and man is the agent in whose hands it is left to make or to mar that supreme integration.

To regard God as perfect in power, as he is in vision, at the very beginning, is the most disastrous of superstitions. The "monistic superstition," as William James calls it, has worked havoc, and the most momentous decision which mankind has to make is to re-learn on that score. God and man are a polarity. They are both heroes in the same drama. They need each other, they grow together, but they also suffer together. Hence they need consolation, Benedictions and Consolations. That the Midrash is designed to supply. The Midrash is a vast post-Biblical Bible written on the margin of the Bible to account for the sufferings of God and man in their efforts to reclaim and uplift an unfinished and emerging world. It furnishes the faith which by generating strength helps to create the object of its faith. Its eyes are on the future, on the realized kingdom of God. Hence its proper closing prayer is the Kaddish, which was composed for the schools, not for the Synagogue, and has nothing to do with its later use for the dead. The Kaddish is the briefest formulation of Jewish theology, and it properly terminated every Agadic discourse as the doxology which summed up the very soul of the Agada.

That the Torah will be made real in the end, and that all men will accept it in the end, that there is a far-off goal towards which all history converges, and that time and event are no mere welter or chaos but a meaningful process, and that the protagonist in that progress is a tragic-heroic figure, wounded and smitten but undismayed: that is the theology and the philosophy of history implicit in Midrash and Bible.

Man needs re-assurance on double grounds. He must be saved from despairing that there is meaning in history. He must be saved from despairing over the fact that the good must suffer.

The classic Midrash always concludes with some reminder of the certainty of the Messianic goal, hence very properly the Kaddish is its crown and consummation. The grammar itself is theological. The *Ithpaal* of the opening words *יְהוָה יִתְקַדֵּשׁ* connotes gradual process of achievement. "May his great name get to be magnified and sanc-

tified," that is, more and more, in increasing measure. "In the world which he hath created according to his will," that is, in a world of time and effort and growth. Then the climax, "May he establish his Kingdom," *וימליך מלכותה*, corresponding to "Thy Kingdom come" taken over into the Lord's Prayer in Christianity. And thereupon the concluding words, unexampled in patience and faith, in heroism and pathos: "during your life and your days . . . speedily and at a near time." For they knew and we know that it is agonizingly remote. But the course is set and to give up because of delay is despair, and despair is the cardinal sin in a fighting man's religion, it is the cardinal sin in Judaism, for it spells the defeat of God. *צפית לישועה*, did you continue to hope for salvation, is one of the questions asked of every Jew at the Judgment Seat, according to one of the great rabbis (Sabbath 31a).

## II

Before we proceed to the details of our task there must be a disclaimer at the threshold, namely, as if Agada excluded or lowered Halakah. There is a wickedness of human nature which leads man to think that he cannot praise one thing without denouncing another. That there can be and indeed on occasion must be, within a given context of two related but contrasting elements, a cult and cultivation of both, a mutual supplementation, a perception that they secretly intercommunicate and feed each other, though on the surface they may seem to antagonize and negate each other, is the higher and more adult view, the mark of the genuinely integral and matured mind. But "all things excellent are as rare as they are difficult" we have been told by a Jewish thinker; and *אלו ואלו דברי אלהים חיים* of the old Rabbis is far more than a homily of easy tolerance, it is a deep and difficult lesson concerning reality which mankind will have to teach itself because it is so rare by reason of its excellence.

A wickedness of human nature, we have said, an almost inevitable temptation to stress one element at the expense of another. We see it exemplified at every turn in the history of religions and of our religion. True, in the Bible, i. e. of course in the Old Testament, the ideal of an equilibrium between Agada and Halakah, as embodying the two great concerns of the religious mind, is most nearly attained. Taking Agada as the summary designation for Prophets and Psalms, and Halakah to stand for the codes, which for all their brevity and bareness are the backbone of the whole system, we may say that the Halakah is a product of the Agada: the Agada feeds Halakah in the sense that

the codes are a precipitate and crystallization of Prophets and the Prophetic mind early and late; and that in turn the Prophets rest upon the laws of righteous living for their support, and when these laws have hardened or when they persist in their more primitive phase they tend to be dissolved again into an "Agada" from which they emerge re-fashioned.

But apart from this supreme example of equilibrium in the Hebrew Bible, which however must remain an unstable equilibrium as in any living organism, the rest is a story of a shift from one extreme to another. Jesus and Paul are antinomians. The Protestant Reformation professes itself a revolt of the living faith against the dead works of the Roman Church. With us Hasidism is a similar stress of the soul and spirit, of ecstatic enthusiasm, against the rigidity and dryness of Rabbinic rationalism and routine Mitzwot. And to top them all, Reform Judaism in its first classic phase was a rejection of the whole ritual and pattern of orthodoxy in favor of a few grandiloquent Agadot such as "the fatherhood of God and brotherhood of man."

There is no doubt that codes and patterns tend to harden and to become purely external motions of hands and lips, inspiring recurrent rebellion of the heart and spirit. But there is equally no doubt of the opposite. The most glorious spirit in the world will evaporate into thin air and even into self-righteous gush if not given honesty and reality by a hard discipline of doing and behavior, of observance and performance. This is a basic matter of physiology and psychology. You cannot have a living organism without a skeletal framework, or a building without a scaffolding, and you cannot have a pure life of the spirit without issuance into hands and legs, without articulation and organization of the medium in which it is to work. That medium is the body and time.

In general there is no great feeling without the discipline of high burdens. We can earn our emotions too cheaply. We are never quite willing to pay for them. Hence the danger of all high "Agada," i. e. of music and poetry and prophetic exhortation and ecstasy, which furnish men emotions they have no right to unless they have lived and worked to merit them. Agada is rightly a reward and a זכות for those who have shouldered Halakah.

We must learn to see both sides of both demands, to take the fat with the lean, the danger with the profit. The trouble is that value and danger are distributed unevenly: where the value is apparent the danger is hidden, and conversely where the danger is apparent the value is hidden. In the case of the codes the danger is obvious, namely externalization; but the need and service, though deeper-lying, are

utterly indispensable. In the case of the prophecy and poetry the need and service are obvious, for the spirit is goal and essence of the whole set-up; but the danger, though deeper-lying, is deadly. Your organism will die down as your spirit grows less; but your spirit will vanish unless you capture and harness it. You are caught between two necessities equally imperative. It may be a tragedy that pure spirit in man cannot subsist without body, as it certainly is a tragedy when body loses its informing and quickening soul.

Consider, as a classic instance of the intertwining of Halakah and Agada, the rite of circumcision. The supreme Prophet of the Hebrew Bible, Jeremiah, one of the great spiritual seers of all time, demands a circumcision of the heart, i. e. he envisages the replacement and spiritualization of a ritual act which has its beginnings in a dim barbaric past. "Circumcise yourselves to the Lord, and take away the foreskins of your heart, ye men of Judah and inhabitants of Jerusalem" (Jer. 4.4). "Behold, the days come, saith the Lord that I will make a new covenant with the house of Israel and with the house of Judah. . . . I will put my law in their inward parts, and in their heart will I write it" (Jer. 31.31-33). And in Deuteronomy, that great re-statement of the Law under the influence of the Prophets (for the scholars regard it as a product of the Jeremianic School, and it would be a fine example of the purging of Halakah by Agada), the simple injunction "Circumcise therefore the foreskin of your heart" (Deut. 10.16).

All this is superb, but the wisdom of the Jewish genius matches it with grim humor in the daily grace after meals. This prayer enumerates God's various benefactions to Israel, land, redemption from bondage in Egypt, gift of Torah, gift of life and food, and conspicuous in their very midst is the sign and seal of circumcision. "We thank thee O Lord our God because thou didst give as an heritage unto our fathers . . . as well as for the covenant which thou hast sealed in our flesh. . . ." ועל בריתך שחתמת בבשרנו.

Now which of these two demands shall we go by? Shall it be the circumcision of the heart as the far-off goal of all men and of all aspiration, dropping by the wayside the hard and ineffaceable discipline of the flesh, without which however we collapse and the demand of the heart evaporates? Or shall we retain the discipline of the flesh, knowing full well that the flesh may be weak when the spirit is willing, but also knowing that the flesh is the only vehicle of the spirit if the spirit wishes to abide? Heart is heart, but as the latest and therefore frailest of all human developments it has only the strength of an aspiration; and flesh is only flesh but, if you cut into it, it serves as



an everpresent reminder. This is one of many instances in which the Jewish genius shows its poise and power by doing justice to two equally imperative but alternating and jealous claims. The circumcision of the heart is the goal for mankind and for the Jew; and for the Jew the circumcision of the flesh in addition is part of the slow schooling and the inexorable reminder of his special role in the advent of the kingdom of the heart.

The greatest Agadist of our time, Bialik, has written the most powerful defence of Halakah in modern Hebrew letters. He, not only our greatest poet, but also the indefatigable collector and anthologist of the Agada, and its subtle and percipient interpreter, has nevertheless also perceived the danger of the undue emphasis of the merely Agadic, i. e. of the supposedly spiritual, when standing alone and without the counterbalancing action of the Halakic mood and frame of mind, which is of course the willingness to assume disciplines and burdens. And it is because of the special temptation of Agada for the modern Jew, and because of the modern Jew's special unwillingness to accept Halakah, that we indulge here in this divagation in defence of Halakah before we return to an exposition of the values and function of Agada.

Let us see again what is the most telling thing that can be said against the Halakic code and mood. Let us start with the most famous utterances, those of Jesus about the Sabbath being made for man, not man for the Sabbath; about things that come out of the mouth rendering unclean and not the things which enter it; or Paul's summary claim for a man who is truly "in Christ" as having lost the very capacity for sin. It sounds gorgeous, but the problem is by no means solved. The real and serious soul does not need the exemption from the law to gain spirit. Those who are exempted or exempt themselves are not thereby possessors of the spirit. It is precisely those who want to make things easy for themselves who welcome the comforting assurance of exemption. Paul and Jesus say things that sound true, but they only flatter us. They point to the dangers of mere observance without pointing to its indispensable function; and to the value of spirit without pointing to its volatility and its high pretentiousness. When was anyone by believing himself truly "in Christ" freed from the capacity for sin? Was it Paul himself? Is not lapse and relapse the law of our life as it was of Paul's? And was Jesus able to dispense with the Sabbath or with the Law generally? Did he not use the Sabbath for worship and preaching, and by his own express assurance the Law for living? Antinomianism in and by itself is everywhere a

self-delusion on the part of those who too easily absolve themselves, those who are impatient with the Nomos but have no Pneuma to match it.

In the case of Reformed Judaism it is wise to remember its origin, the rhythm of its historic course, and its probable future attitude towards the Law. Reformed Judaism is by no means a fixed, static, unchanging religious philosophy. In its beginning (1835-1848) a movement of prophetic fervor, a rebellion against the decrepit and sordid exterior which overlaid the surface of the ancient faith, it was almost perforce a negation of forms and rituals which seemed to have become a dead letter. But negation by itself leads to the emptying of content. It has happened that the extreme of negation was reached when the whole of Judaism was reduced, almost always by laymen who having neither Halakah nor Agada had no right to speak in the name of Judaism, to the single formula of the fatherhood of God and brotherhood of man. That of course is a pompous hollow phrase since it usually does not imply the slightest difference in the mode of life of those who utter it. But the negations of Reform were almost always less extensive and less deep than appeared. Much more of substantive Judaism was retained than was confessed. And while Halakah will never be allowed its old dominion in Reformed Judaism, there can be no doubt that more and more of it will be re-appropriated as time goes on, for there can be no Judaism without Halakah. The only question is, how much.

Moreover the lines of demarcation and mutual exclusion between Agada and Halakah are by no means as real in the history of religions as they seem on the surface. Catholicism is not all "works"; it is full of the richest kind of "faith" from Augustine to Francis of Assisi. Conversely Protestantism is by no means all "faith"; it very soon hardens into an orthodoxy of reform; and there is nothing within Catholicism quite so depressing as the gloomy and morose mood of Calvinistic Halakah. And that in turn was balanced by Pietism and Mysticism. Obviously then something of both Halakah and Agada must enter into every religion, the only problem being how to obtain and maintain the requisite equilibrium.

To return to our own religion, Rabbinic Judaism is by no means all routine Mitzwot: there is the quiet devotion of Kawwana in the most prosaic weekday service, and on Yom Tov and the High Holy-days the atmosphere is instinct with it.

Hasidism is so far from being mere spirituality that Shneor Zalman, its finest mind and its theorist, writes a special enriched redaction of

the Shulhan Aruch. Then Hasidism itself for all its Hitlahavut or Conflagration settles down to a routine, and the routine alas degenerates often into a magic of intercession.

The problem always is to maintain faith and works both together in their vitality and mutual enrichment, for each is an incomplete half. Works tend to become magic, a mere opus operatum; spirit tends to become hollow grandiloquence, fatuous and complacent. Judaism has never failed to insist on the less attractive, the less popular, the prime indispensable of behavior and performance; but it has also the richest kind of enveloping religiosity. *To this latter it has a right* since it has never neglected the former, and we turn therefore with good conscience to a further exposition of Agada.

### III

Hebraism and Hellenism are regarded as the two component factors of our modern Western culture. The formulation was made by Ernest Renan, a thoughtful student of Christian and Jewish origins and of their impact on the modern world, and was rendered current among the English-speaking peoples in a famous essay by Matthew Arnold. It is a grand simplification and still true. The two forces are of course distinctive and different ("doing" and "knowing" says Arnold in his summary way) and for that reason may seek to ally themselves into an integral whole. But there must also be kinship and affinity for alliance; and that general kinship and affinity merges at one particular point into identity. Where the Hellenic genius inclines away from Hellenism and towards Hebraism, in the Platonic Socrates and in the mature Plato, *the primacy of the Good* brings Hellenism into closest proximity with the core and essence of Hebraism. Plato is, in Philo's phrase, a Moses talking Greek.

At the threshold of Midrash Rabbah, which is the most monumental and impressive of all the Midrashim, there stands as prelude and, so to speak, as keynote of all of Midrash, a monolithic Platonic utterance, which bases itself on a similar Platonism in the Bible, namely the passage in praise of the primeval Wisdom in Prov. 8.22-32, and is followed in the Midrash by the Jewish selection among the infinite Platonic essences or forms of the seven which it alone needs and wants. Let us examine the first keynote utterance.

"In the beginning." In explanation of this first verse of the first chapter of Genesis, R. Hoshaya the Elder quotes Prov. 8.30 "Then I was by Him as a nursling, and I was daily all delight." Do not read *Amon* (nursling), read *Uman* (artist or architect). What the Torah or

Wisdom is saying in that verse in Proverbs is this: I was God's architectural tool at creation. In human practice when a mortal king builds a palace he does not build it from his own knowledge but from the knowledge of an architect. And the architect does not build it from his own knowledge but relies on parchments and tablets (blue-prints) in order to know how to make the chambers and how to make the doors. *Thus God looked on the Torah as he created the world*, כך היה הקב"ה מביט בתורה ובורא את העולם. And the Torah itself says in confirmation, 'With the beginning God created,' where "Beginning" can mean nothing but Torah, as is witnessed by the word "Beginning" in Prov. 8.22 'The Lord possessed me (namely the primeval Wisdom or Torah) as the Beginning of his way.' Thus far R. Hoshaya the Elder.

"Beginning" therefore may be a temporal beginning, a beginning in time, but it may also be a logical or intrinsic beginning, a beginning in reality, what we call a principle, just as in Greek ἀρχή may mean a beginning in time, or a first cause and first principle. That principle or timeless beginning is Wisdom or Torah. God created the world in the image and by the instrumentality of that true Beginning which is Wisdom or Torah.

This is not an isolated utterance, it is the common property of the Midrash. Thus the widely known and popular Tanhuma begins on exactly the same note. "'In the beginning God created.' This is what Scripture has in mind when it says 'The Lord founded the earth with Wisdom' (Prov. 3.19). And as God went on to create his world he took counsel with the Torah נתיעץ בתורה and so created the world." The Targum Yerushalmi translates the opening word בראשית quite simply בחוכמא, as if no further explanation were necessary. The Yalkut on the great text in Gen. 1.26 "And God said, let us make man in our image, after our likeness," has the words "God said to the Torah, let us make man," אמר הקב"ה לתורה נעשה אדם (Yalkut Shimeoni, Article 13, p. 4b, Col. 1, and Pirke Eliezer, Ch. 11, ed. Luria, 27b).

In the Midrash then the Torah, identified with the primeval Wisdom, is the blue-print, the objectified mind of God, but also the instrumental power, i. e. both the plan and the architect, which God employs in the creation of the world and of man.

The idea is already present, if not in such definite terms certainly clearly enough, in the Biblical original to which we have been referring throughout, namely the great poem in Prov. 8.22-32, where Wisdom-Torah, the first of God's works, is present at creation, and not merely delights in the beauty of creation as it proceeds, but is implicitly the means whereby, in contrast to the account in Genesis, creation is not an arbitrary act of divine omnipotence but precisely a cosmos. The

exact degree of participation and subordination of Torah-Wisdom in the act of creation, which busies the commentators, need not detain us here, since in any case participation in the act of creation and subordination to God are both true. So likewise, how far the hypostasis of Wisdom-Torah as the mind or intelligent will of God has taken place (here or in the Wisdom of Solomon 9.9 "And with thee is wisdom which knoweth thy works and was present when thou wast making the world") need not concern us; in any case it is sufficiently separate from God to confront God with a degree of independence. Further the Biblical scholars seem on the whole to feel that the poem in praise of Wisdom in Proverbs is indigenous, native to Israel, which would be a welcome confirmation of the view that a certain basic Platonism is one of the original motifs of the human mind whenever it rises to speculation.

But the passage at the beginning of Genesis Rabbah in the name of R. Hoshaya is certainly not independent of Greek influence. Bacher (in the old *JQR* III, 357-360 and in *Agada d. paläst. Amoräer* I, 107, note) has shown the exact parallel to this passage in Philo (De Opificio Mundi, 4), and indicated Origen who lived in Caesarea as the probable source of Hoshaya's knowledge (*ibid.* I 92). Origen, the Alexandrian Church Father, was precisely the man to be full of Philo, and residing as Bishop in Caesarea, and in constant learned intercourse for his Biblical and exegetical studies with the great Jewish scholars resident in Caesarea, would almost certainly have been in touch with Hoshaya who had his academy in Caesarea.

Philo however is faithfully Platonic. His God proceeds like the Demiurge in the Timaeus (28a). He consults the Torah-Wisdom as pattern like an architect who, in his mind's eye, consults a model, ἀποβλέπων εἰς τὸ παράδειγμα, and then conceives in mind the archetypes or forms of the world before he creates the corresponding empirical things, ἐνενόησε τοὺς τύπους αὐτῆς. And some such conception must have prevailed in the mind of the author of the poem in Prov. 8, since he is concerned with the individual beauties and orders of creation. But Hoshaya is interested in the summary and concentrated meaning of the procedure, which is that the Torah is certainly cause of the world but only its final or purposive cause, its goal and meaning. God created the world for the sake of Torah, i. e. for the sake of goodness, with a view to the realization or domination of Torah or goodness. Similarly in Plato the whole system of "Ideas" culminates in the Idea of the Good, which thus constitutes its ultimate meaning. And shortly after Hoshaya's statement we have a confirmation of this Rabbinic concentration of Plato's thought in the utterance



of R. Benaya (which a little later *is put into the mouth of God himself*): "The world and the fullness thereof were created only for the sake of the Torah." העולם ומלואו לא נברא אלא בזכות התורה (Gen. R., ed. Wilna. Romm, 8a and 10a).

Platonism itself is one of the supreme motifs of the history of philosophy, possibly the one single greatest theme in the whole range of philosophical speculation. Its coincidence with the central thought of Judaism is therefore of worldhistoric significance. That all visible things are created and guided by "heavenly" archetypes, according to perfect and deathless patterns ("burning seeds in the hands of God" in Browning's great phrase describing Shelley's Platonism), is only a partial statement of the doctrine, and still does not reach the centre. It is indeed the view of Platonism that the species and genera of the organic world everywhere in their individual exemplars are fashioned in the image of unitary ideal prototypes; and further that planets and stars in their courses and the atoms in their orbits traverse geometrical patterns and obey mathematical laws. But further than that, all mathematical validities, all true relations generally, subsist in a timeless being; *they are*; they constitute the ultimate substance or reality, waiting to be beheld or "discovered" by some chance mind, and waiting for a possible embodiment or translation into empirical reality of at least one portion of their infinite plenitude. But further than that, all moral and aesthetic validities, what we call the moral ideals and the endless shapes and varying types of beauty, "the light of God in which we see light," are a further and even higher region or realm of "Ideas." In his sad, pensive, profound way, Socrates is made to say concerning the ideal commonwealth in the Republic (592 a b), "In heaven perhaps there is laid up a pattern of it, which he who desires may behold and beholding may set his house in order."

The patterns of the true, the beautiful, and the good, the world of values and ideals, if these be considered not as chance thoughts in our heads or soap-bubble aspirations, but the ultimate stuff of reality, of which we get some dim inkling if we have the זכות; infinitely realer than the so-called real things, for sun and stars can burn up, get born and die, but these no fire can burn, no mildew can touch, they are indestructible, they simply are. We call them "the light of God" from which or whom they come as inspiration; but Plato did without a personal God (the later demiurge or creator in the Timaeus is on a totally different and lower plane). His system was indeed Godhead and with a centre, but that centre he designated impersonally as Idea of the Good, the Idea of Ideas. The Idea of the Good as the core of reality occupies the same place within the system of essences and

forms as the sun in our planetary system: as the sun renders things not merely visible and knowable but is also the source of their growth and being, so the Idea of the Good is according to Plato the why and wherefore of all the other ideas, they have their ground in that central invisible sun (Rep. 509). And it is this central thought which unites Platonism with Judaism: the Good as the heart and ground of all being and reality. The Rabbis call it Torah, Plato the Idea of the Good. R. Hoshaya's opening utterance as the overture to Midrash marks the august marriage of Hebraism with Hellenism.

A metaphysic whose ultimate principle or final reality is the Good, a moralistic metaphysic, binds Judaism and Platonism together: that is what constitutes them together the spiritual basis of our modern world. But in the further development Judaism follows its own nature, its own practical bent. It does not indulge in the play of ideas. It makes an austere selection. What it takes it really needs and converts into muscle. Greeks and Germans have a plethora of ideas, ideas both in the modern depressed and obliterated sense of thoughts or notions, as in the grand realistic and substantial sense of Plato, some of them needed and used, but most of them unused, and cheapening and festering through disuse. In the same Parasha following Hoshaya's initial declaration there is an enumeration of the seven Ideas which the Rabbis have distinguished for the high status of primeval forms or essences present before creation. Besides its conspicuous position here, the passage (with some variations) occurs twice in the Talmud (Pesahim 54a; Nedarim 39b), and many times in Midrashic literature, so it must be regarded as a known and received doctrine. Our text here in Genesis R. seems to be the most authentic and serviceable one.

Accordingly we are first told of six Things or Words (a seventh is later to follow) concerning which it is expressly said that they preceded the creation of the world. And of these six, two are reserved for a special first place within the group. These two are Torah and the Seat of Glory, but concerning both we must make a preliminary remark at once. The Torah originally, as we saw, stands for the whole sum of Ideas, for the objectified mind of God so to speak, at least for the concentration of them all in the purpose of God, in the "final" cause of creation. Here it seems to be just one of the Ideas co-ordinated with the others. The Seat of Glory is the veiled designation almost of God himself, certainly of his prime attribute, namely dynamic power, which as we also saw was at first reserved for Torah, conceived not merely as plan but also as architect. However, something of the old balance in favor of Torah is presently restored. For

the question is raised as to which of these two firsts has the further priority, and the decision is made in favor of Torah, so that in a sense Torah becomes prior to God himself. After these two absolutely primary Beings, four further forms or essences are enumerated: the Patriarchs, Israel, the Temple, and the Name of the Messiah. These are the constituent categories of history and temporal event, from its beginning in the "founding fathers" of the chosen people to its culmination in the establishment of the Kingdom of God on earth. That Abraham, Isaac, and Jacob are heavenly ideas, above all, that Israel is a timeless and ideal prototype, can mean only the enormous sense of the unique role to be played by this people as the bearer of Torah from God to the world. The Heavenly Temple is of course the ideal prototype of all earthly places of true worship. And the name of the Messiah, in which the virtue and potency of the Messiah is concentrated, assumes the final victorious realization of the Messianic Kingdom.

With pathos and with humor a seventh Idea is singled out for the high status of pre-mundane existence or subsistence, namely Repentance. It is chosen because it is indispensable. Without its beneficent presence and protection men simply could not get on; it is the pathetic reminder of the incessant drama and vicissitude of man's moral life.

The culminating debate as to which of the seven has the real primacy, even after the question seems to have been settled, is the most interesting part of the whole passage. With his tongue in his cheek, one rabbi proves that "the Idea of Israel preceded them all," *מחשבתן של ישראל קדמה לכל*. Israel takes precedence over Torah itself, as Torah had taken precedence over the Seat of Glory. And therewith the matter is allowed to rest.

What tremendous consciousness of worldhistoric mission animated these men, despite the touch of humor and irony in the expression of the claim: a consciousness supported by the grandeur of tragedy which overshadowed them, but a consciousness which in more relaxed moments they summoned all the resources of great humor to lighten and to render plausible and palatable.

#### IV

The present section, dealing with suffering and its implications for the varied aspects of Theology and Philosophy, is the most important and most extensive of our entire study. For greater clarity we have articulated it into three parts: 1) a preliminary summary of the

philosophical themes involved; 2) a series of Midrashic texts illustrative of or in some way relevant to these themes; 3) a fuller exposition of the philosophical themes under discussion as well as of related subjects in philosophy to which they lead.

## I.

"The earth is soaked with the tears of humanity from its crust to its centre" is the reasoned opinion of Dostoyevsky's profoundest character in his greatest work (*The Brothers Karamazov*, 256). And Schelling in his profoundest essay speaks of "the veil of sadness which is spread over all nature, the deep ineffaceable melancholy of all life" (*Menschl. Freiheit*, ed. Meiner, 72; ed. Fuhrmans, 64, Eng. tr., 79, "der Schleier der Schwermut, der über die ganze Natur ausgebreitet ist, die tiefe unzerstörliche Melancholie alles Lebens.")

It isn't merely the fact of suffering where that is an inevitable incident in the process of growth, or where it is compensated by fruit and flower of richer and deeper life. Such things we could understand and accept. Nor could we object to suffering which comes as inevitable retribution for foolish and wicked behavior. But where the suffering is out of all proportion to the spiritual results which ensue; and above all where the suffering falls to the lot of those who do not deserve to suffer, first the innocent, and secondly the good and true, that becomes the most stunning and paralyzing experience of the human soul, the most awesome paradox of the whole spiritual life.

Transfiguration of suffering therefore looms as the most pressing task imposed on the thinking mind, and if successful would be the rescuing of God, the restoring of God to the place he claims in our reverence.

The Greeks met the problem by inventing the art-form of Tragedy, the highest of all art-forms as dealing with the deepest of all problems.

The Jews faced it on an even higher plane: in the grand Bible generation by the invention of the supreme images of the human race, the Suffering Servant and Job; in the Rabbinic period by the coining and phrasing of supreme categories in which a sublime solution is compressed and enshrined, *יְסוּרֵין שֶׁל אֱהָבָה*, *חֲבִיבֵין יְסוּרֵין*; and finally in their history, with their own body, with their own living person, as the most signal and paradigmatic sufferer. They are protagonists in the most august drama, the making of man. They are the people whose actual course of life furnishes the material for the apotheosis in Isa. 53, and the image there conceived is so supreme that it was borrowed and used to invest the central figure of the Christian religion.

Now what does transfiguration mean? Is it a word or a reality? What does it come to? What do the good achieve in taking over the sins and sorrows of the world, in a word by doing God's work for him?

The assertion of God in a godless world is the supreme act of religion. It is a continuing of the act of creation on the highest plane. It adds slowly to the area and substance of the Kingdom of God and to the stature of God, the translation of God as ideal and vision into the God of empirical embodiment and of power. Man in whom God's creative effort had achieved a provisional pinnacle, so to speak God's own self-consciousness of his aims, becomes from now on God's confronting partner, and the two together a re-enforcing polarity of give and take. They become allies in the most redoubtable of all struggles and for the greatest of all stakes. They are inevitably lovers, and both of them tragic heroes. But in a very real sense the fate of God and of the future rests on the heroism of man, on what he elects to do, for he is the manifesting God and the focus of decision.

The enormously difficult idea of growth, the idea that the reality of a thing can be still in the making and is to be found only in its fullness and completion, only at the end, not at the beginning; the difficult idea of the reality of time in which something genuinely new can come into being, that is, something not explicable merely in terms of what preceded:—these lead to the thought that God cannot possibly be anywhere but at the end, the קץ, the culmination or consummation. And a change in the very character of God must take place. This is due to the re-entrance into himself of the saints and heroes who have lived and died על קדוש השם, so that he becomes more and more like the best whom he has inspired, more and more a lover, from being at first primarily artist and dramatist. Without such an enrichment and deepening in the character of God himself there can be no intelligent religion for future mankind.

And tragedy from being at first a high necessity must in the event continue as mere necessity. It can become a danger, a danger of masochism or sadism, a danger cutting at the roots of life. It must be out-topped by humor, which redresses the balance and renders us sane. And humor leads to the final thought of the charge of Hybris, the charge of delusions of grandeur on the part of man. That thought is the serpent of skepticism sapping the lifeblood of all heroism. The charge of Hybris against man's high endeavor is Satan's most subtle seduction. But man must radically change in order to make himself immune against such seduction. He must stop being conceited in his outward bearing and impotent in his inward substance, as he is at



present; he must be overwhelmed by humility in his outward bearing, because inwardly he is filled with a sense of supreme and decisive destiny.

## 2.

Love stands at the beginning, the lover's love which chooses one amongst many, the beloved's love which returns the love in single-hearted devotion, the love which is proof against the trials and sorrows that love brings in its train because of the hatred aroused in others. The capacity for love is the prime mark of genius, and love is the main means in discovering new areas of truth, in finding new regions of being, which no merely intellectual agency by itself could find. Hence the ecstatic utterance concerning love by the greatest name in all Christian thinking, Augustine: "I loved not yet, yet I loved to love. I sought what I might love, in love with loving. *Nondum amabam et amare amabam, quaerebam quid amarem, amans amare*" (*Confessions*, beginning of Book III). And the Song of Songs has been the classic text of all deeper religiosity from Akiba to Bernard of Clairvaux. "Thou shalt love the Lord thy God," "Thou shalt love thy neighbor," in a word, "Thou shalt love," — although it is known in sober fact that love is an emotion which cannot be commanded.

Our basic text here is accordingly taken from the Song of Songs: "For I am sick with love", *כי חולת אהבה אני* (2.5): I am love-sick, love has made me sick. Love can be so ecstatic as to invade normal physical health, and this initial paradox that even on the plane of the natural life what should be wholesome and salutary can, when it becomes intense, turn upon itself and threaten the life which it suffuses, this initial conjunction of love with pain, sounds the sombre keynote to all the higher phases of love. For unmistakably on the higher plane of the spiritual life love moves within the shadow of suffering.

The Midrashic exposition of this text unfolds the theme of Jewish history: "All the sicknesses which thou bringest upon me are for the purpose of making me love thee, or in order to make me lovable . . . all the sicknesses which the nations bring upon me are only because I love thee . . . though I am sick thou still lovest me . . ." (Cant. R., Romm, 15a, col. 2). It is the watchword of Jewish history: they hate me because I love you, and you love me though I am sick and stricken.

Our next text is likewise from the Song of Songs: "Many waters cannot quench love" (8.7). The love which binds together God and his chosen servant by reason of the infinitely precious gift which they together bring to the world, to a world unready and unwilling to

accept it; the love which inevitably must subsist between God and his chosen servant in the face of the overshadowing and overwhelming antagonism of this world; the love which ties God and his servant together in closest union and mutual alliance: — that love is an emotion which the world resents and which it tries to dissolve by attempting to separate the two, to turn one against the other. But God's love for Israel is not to be quenched.

"Many waters: these are the nations of the world. Cannot quench love: the love which God bears to Israel, as it says, I have loved you (Mal. 1.2). Or, many waters cannot quench love: these are the idolators, for even if all the idolators were to assemble to quench the love between God and Israel, they would be powerless, as it says, Yet I loved Jacob (Mal. 1.2)." (Cant. R., Romm, 40a; Exod. R., Romm, 79a; Num. R., Romm, 7a).

Thus far the love which God bears towards Israel. But the love which Israel bears God has a far heavier burden to carry, namely disaster, death, martyrdom. How it is to fare under this shadow of death furnishes its most tragic and formidable task of transfiguration and re-interpretation, but they have in Akiba a master of love and martyrdom to speak for them and to set the tone.

Akiba speaks, in a poem in which this master of love and death sums up and transfigures the quintessence of his life. For the nations of the world which appear so eager for God in the poem are a fond anticipation of the poet and in present fact are the Roman executioners flaying him alive; and the God for whom Akiba is so utterly happy to die must surely be a wonderful God if he can so irradiate the martyr's face, though in actual fact that God is still unable to prevent the martyrdoms for his holy name's sake.

Akiba speaks: "I shall tell of the beauties and praises of God before all the nations of the world. For all the nations of the world ask Israel saying, 'What is thy beloved more than another beloved (Cant. 5.9) that you are so ready to die for him and so ready to let yourselves be killed for him? For it is said, "Therefore do the maidens, *עלמות*, love thee" (Cant. 1.3), meaning they love thee unto death, *עד מות*; and it is also written, Nay but for thy sake are we killed all the day' " (Ps. 44.23).

At this point in the dialogue the nations turn their gaze in admiration on the tragic heroic lover Israel, and exclaim "You are handsome, you are mighty, come and intermingle with us." But the Israelites say to the nations of the world: "Do you really know him? Let us but tell you some of his praise: My beloved is white and ruddy" (Cant. 5.10). Here the nations express themselves ready to join Israel. But

Israel in the stress and fervor of the emotion and in the language of true love replies: "My beloved is mine and I am his," דודי לי ואני לו, "I am my beloved's and my beloved is mine," אני לדודי ודודי לי (Cant. 2.16 and 6.3), i. e. you have no share in him. Any true lovers know that love is a closed circle, love is lost in its object, lost to all the world beside. And a mere request on the part of some admiring outsider to be allowed to join in, is felt to be, in the face of the red-hot emotion, unreal and not authentic. Love must first be allowed to take its own exalted course, and the rest, namely a universal sharing, will come in due time (Mekilta, ed. Lauterbach, II 26; ed. Friedmann, 37a; ed. Weiss, 44ab).

And now we must put the crucial question. What is it that inspires this love of Akiba-Israel? What new vision, what higher insight, has slowly arisen and come to the fore to feed the fire and generate the power with which to withstand suffering, — to enable man to love God in a world in which God himself is still lamentably weak, a world in which God and man both are only like heroes in some tragic drama: defeated, and victorious only in the spirit?

It is a twofold insight of a new order of being whereby suffering becomes transmuted and meaningful. In a series of images and parables the thought is brought home to them in full self-consciousness, to Akiba, to the rabbis, to Israel, to future men for whom these are the prefigurations, that, in a growing world like ours, only when the old self is crushed and broken can a higher self emerge, and only if we transcend and forget the petty arithmetic of our private life and go on to include and assume the burdens of others do we rise to a higher life. This double insight takes the sting out of suffering and completely inverts its status, raising it from madness to creative heroism.

R. Abba b. Yudan said: "Whatever God has declared unfit in the case of an animal he has declared desirable in the case of man. In animals he declared unfit the blind or broken or maimed or having a wen (Lev. 22.22), but in men he has declared the broken and contrite heart to be desirable."

R. Alexandri said: "If an ordinary person makes use of broken vessels it is a disgrace for him, but the vessels used by God are precisely broken ones, as it is said, 'The Lord is nigh to the broken-hearted' (Ps. 34.19); 'Who healeth the broken in heart' (Ps. 147.3); 'I dwell in the high and holy place, with him also that is of a contrite and humble spirit' (Isa. 57.15); 'The sacrifices of God are a broken spirit, a broken and a contrite heart O God thou wilt not despise' " (Ps. 51.19). (Pesikta 158b and Lev. R., Romm 11a, col. 2).

R. Alexandri's utterance is so sublime that even slight variants in

the text are to be noted. In Lev. R. the reading is *אבל הקב"ה כלי חשמישו שבורים*, "God's service vessels are broken"; in Pesikta *אלא כל שימושו כלים שבורים*, all of God's servants are broken vessels: the Pesikta reading seems to be the fuller and the more preferable.

And it may be noted in this connection that the image, the concept, the phrase "broken-hearted" enters the world-consciousness from these verses in the Psalms.

We go on. "My beloved is unto me as a bag of myrrh" (Cant. 1.13). . . Just as myrrh is the most excellent of spices, so Abraham was the chief of all righteous men. Just as myrrh gives off its perfume only when brought into the fire, so the worth of Abraham was not known till he was cast into the fiery furnace". . . (Cant. R., Romm, 12a, col. 2).

So we read in an English poet writing out of a religious mood: "Must Thou char the wood ere Thou canst limn with it?" (Francis Thompson, Hound of Heaven).

And back to our Midrash: "Just as oil is improved only by beating, so Israel is brought to repentance only by suffering." (Cant. R., Romm, 6b col. 1).

When Abraham stayed at home he was like a flask of myrrh with a tight fitting lid and lying in a corner. Only when opened and scattered to all the winds can its fragrance be disseminated. Hence *לך לך*, go and expend yourself. (Cant. R., Romm, 6b col. 2; Gen. R. 79 a Col. 1).

We now come to the famous group of parables on the text in Ps. 11.5, "The Lord tries the righteous." The question is, why should God try the righteous? The righteous do not need to be tried, they are already "tried and true." It is the wicked who should be tried; or are the wicked not even good enough to be tried? There is an inversion here of what one would naturally expect.

"R. Jonathan said: 'A potter does not test defective vessels, because he cannot give them a single blow without breaking them. Similarly God does not test the wicked but only the righteous, thus the Lord trieth the righteous.' R. Jose b. R. Hanina said: 'When a flax-worker knows that his flax is of good quality, the more he pounds it the more it improves and the more it glistens; but if it is of inferior quality he cannot beat it at all without its splitting. Similarly the Lord does not test the wicked but only the righteous, as it says The Lord trieth the righteous.' R. Eleazer said: 'When a man possesses two cows, one strong and the other feeble, upon which does he put the yoke? Surely upon the strong one. Similarly the Lord tests none but the righteous; hence The Lord trieth the righteous.' "

And in its purest, almost intolerably poignant form, the exquisite

phrase concerning the lover in the Song of Songs, "He feedeth among the lilies," is transferred from its erotic setting to the awesome tragic plane of the Divine Lover who by preference feeds among the lilies, that is, tries and breaks the tender and noble. . "God's rod comes only upon those whose heart is soft like the lily" (Cant. R., Romm, 19a). — אין שרביטו של הקב"ה ממשמש ובא אלא בבני אדם שלבם רך כשושנים.

These pantragic parables have but one meaning: the good must bear the burden of the bad and the strong that of the weak. The parables occur repeatedly, twice in the Rabbot, twice in the Tanhuma and once in Midrash Tehillim, so that obviously they were an inalienable possession of the rabbinic mind, part and parcel of the thinking Jewish mind.

The sentiment gradually established itself that it is a mark of the grandeur of man to be asked to bear more than his share of the burden; and by the same token that the supreme degradation of the low and the base is not to be thought worthy of being ennobled through bearing the sins and sorrows of others.

And this theme of vicarious responsibility and vicarious suffering, "in which the heavy and the weary weight of all this unintelligible world is lightened," no matter how honorable for the good and the strong and how derogatory to the drags and the burdens, rises to tragic sublimity in the passages which openly proclaim Israel's atoning martyrdom.

"As the dove stretches out her neck to the slaughter, so do the Israelites, for it is said, 'For thy sake are we killed all day long' (Ps. 44.22). As the dove atones for sins, so the Israelites atone for the nations, for the seventy oxen which they offer on the festival of Tabernacles represent the seventy peoples so that the world may not be left desolate of them; as it says, 'In return for my love they are become my adversaries, but I am all prayer' " (Ps. 119.4). (Cant. R., Romm, 13a and 23a).

A final set of phrases must be considered in which the rabbinic mind enshrined an answer without parable or argument. Such are the great lapidary utterances חביבין יסורין and יסורין של אהבה, "sufferings are a mark of God's love" and "sufferings are precious." They are question-begging, that is, in default of argument they are answers by fiat and decree, they are answers by heroism. The answer to the question why the good must suffer for the inadequacies of the world would be the fact that the world is growing, developing, and therefore inevitably defective, and there must be someone noble enough to assume the burden, as exemplification of a new insight, namely that nobility obligates, noblesse oblige. But the answer to the question as



to what kind of a God there is in such a world is a baffling one, since the alternative is that he is unwilling or unable, and neither answer is palatable. Man in his grandeur therefore takes upon himself the odium or onus which would otherwise rest on God and brushes it aside, and the rabbis invent the sublime locution with its flagrant and obvious paradox **יסורין של אהבה**, sufferings sent by love, chastisements out of love, in which God is allowed to remain the lover, strange though that may sound, and man is willing to take over for him. That had already been the case in the supreme image before their eyes, the Suffering Servant of Isa. 53, the essence of which they sum up in their present phrase. God's love and justice may be veiled and obscured, but man stands forth as all the more heroic. He is willing to take over for God. For what sane mind would not regard as madness the assertion that love can manifest itself by sending sufferings upon the beloved? "And all men kill the thing they love, by all let this be heard" (Wilde, *Ballad of Reading Gaol*) is a saying fit for a crazed pagan penitent, not for the true religious soul. However, because of a crushing dilemma, the rabbis speak of sufferings sent by love, sent by God out of love; they transcend the rational calculus, they save God's face and honor, and they continue the sublime paradox by saying that sufferings are precious. What sane mind would regard sufferings as precious? What sane lover would mark his love by sending sufferings? It is a sublime ecstasy whereby man outdoes God, where man proclaims and postulates God in a world in which God as real power is barely emerging and where God's impotence has to be covered, as Akiba did, the greatest of rabbis and the greatest of Jews, who died with the **אחר** on his lips in the hope of making the **אחר** a reality in the world some day, and whose supreme legacy to those who are great among Jews and to all future heroic mankind is the injunction to be **עושין מאהבה** **ושמחין ביסורין**, to act out of real love and therefore to rejoice in sufferings.

These are the heights; and the willing acceptance of suffering remains the high-water mark of the religious spirit from Isa. 53 where the image is supremely conceived (and from there borrowed for the central figure of the Christian religion) on to Yehuda Halevi (the deepest Jewish soul of the Middle Ages) who, in words at once the most sober and the most mystical (*Kuzari* I, 115 and IV, 22), asserts that if the Jews were to assume their persecution and sufferings willingly and not merely as a necessary evil, the magic efficacy and sheer suasive power of that truly religious act would overcome nature itself and bring on salvation at once. But, as he recognized himself, it is a sublimity beyond man, it can hardly serve as an everyday pattern of conduct, and a deliberate cult of it would undoubtedly lie

in the direction of the morbid. Suffering can be forced on us by fate, and then the best of us may hope to rise by ineluctable grandeur to the willing acceptance of it; but to envisage it as a steady goal is simply inhuman and is out of the question. That way lies masochism.

Hence we shall presently, under the guidance of the Rabbis, have to mark the limits of all suffering: — first, in the simple healthy humorous **בשר ודם** sense of who wants to suffer? but secondly also as cutting at the roots of life if (as is the danger of the best) it is raised to a tragic-heroic cult.

After that we can undertake as next step the great theme of man and God's mutual need of each other, their mutual implication and mutual cooperation.

However, before developing both of these themes we must bring to our attention God's own special suffering as the Rabbis conceive it: his weeping, his helplessness, his need of comfort. This is indispensable for a weighty reason: because it is the mythological form of expressing the philosophical thought of God's limited power in the world as it stands. In our Halakic creeds we may profess or assert theoretically an omnipotent God (as the great seer of the Exile facing the Zoroastrian dualists whose arguments surely struck home nevertheless insists on a single God though it makes God author of evil as of good, Isa. 45.7); but here in the realm of Agadic freedom we can afford to tell the truth as we feel it with the sharp sting of reality: God is a very finite God in the world of actual things. We can say it if only we say it in the form of images which are not binding as sober formulated creed but which have the supreme value of tacit admission and of irony. Hence the force and justification for the Agadic anthropomorphisms, the human all too human way of speaking the truth as one immediately feels it, and without definitive commitment to the letter.

Now let us look at the weeping God. First a general view: "When God remembers his children who dwell in misery among the nations of the world, he causes two tears to descend to the ocean and the sound is heard from one end of the world to the other" (Berakot 59a).

The weeping stricken God, who says of Israel "I am with him in his distress," **עמו אנכי בצרה** (Ps. 91.15), can be supremely distressed in his own person. The proems or introductions to Lamentations Rabba contain poems of great pathos and poignancy depicting this bowed and defeated God. It would be the shallowest of rationalisms to dismiss these as anthropomorphic vagaries. Anthropomorphisms are the device of our intelligence to say mythologically what we are afraid or unable to say in bald abstract prose: in the present case, that God and Israel

are the emerging higher principle in a world not ready for them, in a world which is still vastly stronger than they. Let us listen to one of the poems.

"In the hour when God determined to destroy the Temple, he said, 'So long as I am in its midst, the nations of the world will not touch it; but I will close my eyes so as not to see it and swear that I will not attach myself to it until the time of the End (the Messianic era) arrives, then the enemy can come and destroy it.' . . . Thereupon the enemy entered the Temple and burnt it. When it was burnt God said, 'Now I have no dwelling place in the land; I will withdraw my Shekinah from it and ascend to my former place.' In that hour God wept, באותה שעה היה הקב"ה בוכה, and said, 'Woe is me, what have I done? I caused my Shekinah to descend for the sake of Israel, and now that they have sinned I have returned to my former place. Heaven forbid that I should become a laughing stock to the nations and a scorn to men,' חס ושלום שהייתי שחוק לגוים ולעג לבריות. Then Metatron came and fell on his face and said, 'Let me weep but Thou must not weep.' Then God said, 'If thou sufferest me not to weep I will go to a place where thou hast no power to enter and I will weep there, as it is said "My soul shall weep in secret places (Jer. 13.17)." Then God said to the angels of the service, 'Come we will go, you and I, and we will see what the enemy has done to my house.' So God and the angels of the service set forth, Jeremiah leading the way. When God saw the Temple, he said, 'Assuredly this is my house and this is my place of rest into which the enemy has come and worked his will.' In that hour God wept. . . Then God said to Jeremiah, 'Go call Abraham, Isaac and Jacob and Moses from their graves, for they know how to weep' שהם יודעים לבכות. Then they all went weeping from one gate of the Temple to another, as a man whose dead lies before him. And God mourned and said, 'Woe to the King who in his youth succeeded but in his old age failed.' " — (Lam. R., Introduction 24, Romm, 6b col. 2).

The candor here leaves nothing to be desired. God's insistence upon the plain right of the grief-stricken to weep, however unbecoming to the dignity of a God, is especially touching. And as there is no greatness of thinking without audacity, the Rabbis go on to tell the truth about the whole business of comforting. First, it is a very doubtful business at best, of little value and efficacy; and secondly, if anyone can be said to be in need of comfort it is God, not Israel.

There is in the Pesikta de R. Kahana an entire section (ed. Buber, 123b-129a) devoted to homilies for the Sabbath following the Ninth of Ab, the so-called Shabbat Naḥamu, because the Haftarah for the

day is the great text from Isaiah 40, "Comfort ye, comfort ye, my people." But in the midst of the comforting there is a sudden halt and a complete about-face in mood, and someone invokes the text from Job (21.34) "How then comfort ye me in vain? And as for your answers, there remaineth only faithlessness." The prophets, namely, at God's request, proceed to Jerusalem to bring the message of comfort, but as each arrives with his word of consolation, Jerusalem listens blandly and retorts with another utterance from the same prophet flatly contradicting the first, whereupon the prophet has to retire crestfallen. Ten of them by name, from Hosea to Malachi, make their appearance in order and all receive the same treatment. They then set forth in company to God, and say to him, "Ribono shel Olam, Jerusalem refuses to be comforted." He answers, "Let us go together and bring her comfort" (changing the opening words of Isaiah to read not *Naḥamu naḥamu ammi* but *immi*, i. e. with me). And though God, in addition to himself and the prophets, brings to bear all the powers and agencies of the world on the same task, namely the upper and nether regions, the quick and the dead, the life here and the life to come, there is no indication that comfort is of any avail. On the contrary, there is so little efficacy in comfort that God himself is made the object of pity.

Our text proceeds with several parables the purport of which is unmistakable. When a King's palace is captured by the enemy and burnt, who is to be commiserated, the palace or the King? Surely the master of the palace. So with the Temple. God says, "Who is here in need of comfort? Surely I." Hence the opening words of Isa. 40 should properly read נַחֲמוּנִי נַחֲמוּנִי עָמִי, "Oh my people, comfort me, comfort me." And if a King has a vineyard which the enemy captures and lays waste, who is here in need of comfort? "Surely I," says God, with the same refrain, "Comfort me, comfort me, my people." And if a King has a flock of sheep that are attacked and killed by wolves: again the same refrain, "Comfort me, comfort me, my people" (Pesikta 126b-128b, with supplementary notes).

But comfort either for Israel or for God is of little avail. Tragedy can be overwhelming. In Pesikta Rabbati (138a-140b), in the passages corresponding to those cited above from Pesikta Kahana, when the culmination is reached, Jeremiah and Isaiah are made to vie with each other, Jeremiah pointing to the agonizing wounds and Isaiah uttering the words of comfort. But who can fail to feel the greater force of Jeremiah's outcry, "Let it not come unto you, all ye that pass by! Behold and see if there be any pain like my pain" (Lam. 1.12). Tragedy can be so great as to forbid the wish for it to happen at all,

to anyone, not to man, not to God, for it cuts at the roots of life itself.

We had better round out this theme of the opaque limits to all suffering before we pass on to other related themes. And first the pathetic honesty of the Rabbis who cannot bear suffering when it comes as a visitation to their own body, even though they have preached its value to others when they were well themselves. "I want neither the sufferings nor their reward," says Hanina b. Hama to Johanan when the latter visits him in his sickness, although Hanina had urged the same on Johanan when the latter had been sick. No less than three stories with the same pathetic humorous refrain are told on the same page (in Berakot 5b) concerning three of the most distinguished rabbis. "Are the sufferings dear to thee?" asks the visitor who is well (and the sufferings should be dear, according to the theory), but the patient who is sick replies quite brazenly "Neither they nor the reward they bring," although he had been the comforter in a previous instance. *לא הן ולא שכרן*, or (in the Aramaic version in Cant. R., Romm, 19a) *לא אנא בעי להון ולא לאגריהון*, had thus become the standing concession to human frailty and human honesty in reply to the high demand of *חביבין יסורין*.

Transfiguration of suffering indeed, that remains the high task, the supreme achievement, of Judaism, but in the breathing spells there is also the recognition of the intolerable reality. "R. Hiyya b. Abba said: 'If a man were to say to me, "Give your life for the sanctification of God's name," I would give it, but only on the condition that I should be killed at once. But the tortures of the Time of the Persecution I could not endure" and the text proceeds to give in detail the horrors of Roman cruelty under Hadrian (Pesikta 87a and Cant. R., Romm, 16a col. 2). There must be a truce to suffering at the point when it cuts at the roots of life.

And that is expressed in two profound Agadic utterances. The one deals with Job. When God expresses himself as willing to hand Job over to Satan with the bare exception of life, Satan is shocked at the outrage, though it is Satan himself who has tricked God into the offer. "R. Johanan said: 'If it were not expressly written in the Bible, it would be improper to speak of God as behaving like a man whom others can seduce and who can allow himself to be seduced.' . . . R. Yizhak said: 'Satan's pain was greater than that of Job, for God's offer resembled that of a master who orders his servant to break the cask but to preserve the wine'" (Baba Bathra 16a). The image of Satan himself secretly sympathizing with Job at the outrageousness of God's methods is one of superb irony. There is such a thing as



racking a man up to the breaking point, but it is not for God to do so. Satan himself is better, at least according to R. Yizhak. — אמר ר' יצחק קשה צערו של שטן יותר משל איוב משל לעבד שאמר לו רבו שבור חבית ושבור את יינה.

The second passage is on the text in Jeremiah (15.17). "I sat not in the assembly of them that make merry nor rejoiced, I sat alone because of thy hand." "I sat alone," says Israel to God, "but there are two kinds of being alone. I am well acquainted with the one and am quite content with it, namely to sit alone in devotion to Thee, to absent myself from felicity a while and for all while, to stay away from their circuses and theatres, to sit alone through all the successive hatreds of the world, alone and not alone, for I had Thee. But when Thou, for whose sake I sat alone, when Thou turnest Thy hand against me, then I am truly alone, alone and desolate" (Pesikta 119b, Lam. R., Proem III Romm 1b, col. 2).

From suffering, which is passive and enforced heroism, we turn to that high active life of which suffering is merely the necessary incidence, we turn to the partnership of God and man in the creation of the new world. This is in truth the peak and the dominating motif of our whole undertaking, for here the mythopoeic power of the Rabbinic mind is most clearly at work.

God and Israel need each other. They are partners in the same enterprise. Therefore he who hates Israel hates God, and if Israel is forced into exile by the powers which for the present overshadow both, God will detach his visible Presence, his Shekinah, from himself and send it into exile with Israel, to return to God only when Israel itself is enabled to return. The love which initially led the two to gravitate towards each other is a primal and opaque urge of the will; but once in operation the love must justify itself in fruits. "God said to Israel, 'You have made me the only object of your love in the world, so I shall make you the only object of my love in the world.'" (Berakot 6a). But Israel must continue to make God the only object of its love. And now read the mythos as to how God closes the circle in return for the love.

The passage is in Sifré on the text from Num. (10.35) "and let them that hate thee flee before thee." The exposition of the Midrash is as follows: "Has God enemies? It means: whoso hates Israel is as one who hates God. . . He who rises against Israel is as one who rises against God. . . . And he who helps Israel helps God. . . And so each time when Israel is subjected by the empires, the Shekinah as it were is subjected by them. . . . And when it says (2 Sam. 7.23) 'Because of thy people whom thou hast redeemed unto thee from Egypt, a nation and his God,' R. Akiba comments: 'Had we not a direct Scripture it would be impossible to say it, namely this: Israel said to God, "Thou

hast redeemed thyself" . . . And thus we find that wherever they went into exile the Shekinah went with them. . . . They were exiled into Babylon, the Shekinah went with them . . . to Elam, the Shekinah went with them; to Edom, the Shekinah went with them. . . . And when they return (in the Messianic Age) the Shekinah will return with them. For it says (Deut. 30.3) 'And the Lord thy God will bring back thy captivity.' It does not say **והשיב** but **ושב** that is, God himself will return' " (Sifré, ed. Friedmann, 22b; ed. Horovitz, p. 81-3).

The doctrine mentioned last, the mythos of God's going into exile with Israel, or at least God's Indwelling Presence or Shekinah taking exile and captivity upon itself, and waiting for its eventual return or its full restoration to God on the heroic activity of Israel, becomes in later centuries one of the outstanding doctrines in the Kabbala, the great Agada which the Jews developed in the field of the esoteric. We shall have to give it more than passing notice presently.

We come now to the boldest, most forward-reaching thought concerning God in the Midrash, to that conception of God in which the Agada anticipates the most modern speculation concerning the nature of God and his relation to man.

It is this: that God depends on man for his strength and for his failure, for his growth and for his retrogression. In a world in which both are growing or in process, it is man who by his acts increases or decreases the stature of God.

There can be no question of our reading a modern thought into an ancient text: the texts are too unmistakable and unambiguous for that. And on the other hand there can be no asking whether this is the prevailing or predominant view of God in the Midrash. It is not; there is no one prevailing or predominant conception of God. But there can be no question of its presence, of its boldness, and of the full awareness of its boldness on the part of those who utter it. And in general a sense of the interlocking polarity, the mutual implication, of God and man, is one of the ever present features and convictions of the Agadic religious mind.

Let us now look at the texts.

"When the Israelites do God's will, they add to the power of God on high. When the Israelites do not do God's will, they, as it were, weaken the great power of God on high." (Pesikta 166a b and Lam. R., Romm 15a col. 2).

" 'Ye are my witnesses, saith the Lord, and I am God' (Isa. 43.12). That is, when ye are my witnesses I am God, and when ye are not my witnesses I am as it were not God." (Mid. Ps., Buber 255a; Sifré Friedman 144a; Pesikta 102b).

"Unto thee I lift up mine eyes O thou that sittest in the heavens,"

says the Psalmist (Ps. 123.1). To which the Midrash comments: "If it were not for me i. e. if I did not lift up my eyes, Thou O God wouldst not be sitting in the heavens." — אֵלֶּמְלָא אֲנִי לֹא הֵיית יוֹשֵׁב בַּשָּׁמַיִם (Mid. Ps., Buber 255a; Sifré Friedman 144a, and note; Moore *Judaism*, III, 181).

One is reminded of modern utterances in the same vein. Thus the well known lines from the 17th century Baroque mystic Angelus Silesius:

Ich weiss, dass ohne mich Gott nicht ein Nu kann leben:  
Werd ich zunicht, er muss von Not den Geist aufgeben.

Or the more modern lines from Rainer Maria Rilke:

Was wirst du tun, Gott, wenn ich sterbe? . . .  
Mit mir verlierst du deinen Sinn.

There is no intention of blasphemy here, or of facile Hybris; it is merely an expression of the thought that God by himself is an abstraction, i. e. an unreality, as of course man by himself is by the same token abstraction and unreality. The real significance and value of stressing the correlation, or as we shall say the polarity, between God and man, is that in our opinion it is the only way, the only directing guide towards an acceptable, credible and viable theology of the future. Only if we distinguish God from the rest of the universe (*deus* from *deitas*) as that part of the universe which not merely has the insight and will but is also reaching out for the power to implement its insight and will in order to realize the ideal; and only if we distinguish man from the anthropoid ape which he still largely is, as the being correlated with God in the high drama of ushering into reality a new and higher world: only then can the elements of a real authentic religiosity, worthy of the future and adequate to create a future, have room for deploying their power. Thus prayer as the communication between two related powers (numerically two, not just autosuggestion or whistling in the dark) becomes at least possible; thus the relation between God and man becomes a beneficent circle of give and take, each growing and profiting by the other; thus God and man can give each other comfort and forgive each other their mistakes; thus God and man can insist on an active program and a goal, rather than be content with a gorgeous and infinite display of imagination and drama.

We turn back to other related texts which may be less challenging in the wording but which are firmly and solidly founded on the same high estimate of man's share in shaping the future. There is a text in Kiddushin 40a, b (and in Tosefta Kiddushin I, 14) which is so expres-

sive of the Jewish ethos as to man's decisiveness with regard to the open and unshaped future of the world, that it was taken over by the Rambam into his Summa of Jewish doctrine and placed in the *Hilkot Teshuva* at the opening of his great code, and though it is a bold and subtle and ever modern thought it has become part of the Jewish religious outlook.

The text reads as follows: "The Rabbis teach: 'Let a man ever regard himself as if he were half guilty and half deserving; then if he fulfils one command, happy is he, for he has inclined the scale towards merit; if he commits one sin, woe to him, for he has inclined the scale to guilt.' . . . R. Eleazar b. Simon in the name of R. Meir said: 'The world is judged by the majority and the individual is judged by the majority. If a man fulfils one command, happy is he, for he has caused the scale for himself *and for the whole world* to incline towards the pan of merit; and if he has committed one sin, woe to him, for both himself *and for the whole world* he makes the pan of guilt the heavier.' "

In taking over this old rabbinic doctrine, Maimuni not merely retains this cosmic implication of every man's every act at any time, but focuses attention upon it as constituting the main point of the doctrine. "Every man should look upon himself throughout the year as though his merits and failings were equally balanced, and also to look upon the whole world as though it were half deserving and half guilty. Now if he commit but one sin more, then by this simple sin he causes the scale of guilt to preponderate both with regard to himself *and to the whole world and consequently brings destruction upon it*. On the other hand, if he fulfils but one single commandment more, then by this single good deed he causes the scale of merit to preponderate both with regard to himself *and to the whole world, and consequently brings salvation and deliverance both upon himself and them*, as it is said, The righteous man is the foundation of the world (Prov. 10.25) וצדיק יסוד עולם, meaning that *he who acts righteously causes the merit of the whole world to preponderate and by this means brings about its deliverance*." — (Hilkot Teshuva, III 4). זה שצדק הכריע את כל העולם ליכותו והצילו.

The feeling or conviction, that man has the responsibility and the power to help decide the fate of the world at any moment, could hardly be stated with greater definiteness in a work which is not a formal treatise on metaphysics: a profound notion of the grandeur of man, and of the open future which he is free to make or to mar, of the unfinished creation in which he is a decisive factor, is obviously part of the rabbinic mind and of the Jewish outlook on life, whether they can formulate it in set academic terms and propositions or not.

We read it set forth in modern treatises, say in William James and his school of thought ("that the course of destiny may be altered by individuals, no wise evolutionist ought to doubt," *Will to Believe*, p. 99 and in the essays throughout the volume), but we fail to remember that the world's most memorable and effective thinking has been done informally and by way of intuitive insight and in the form of myth.

And to the myth we turn for a moment. The Kabbala and its later development in Isaac Luria of Safed and its adoption into Hasidism are beyond the scope of the present essay, but it would be a fatal omission while dwelling on this supremely important theme of man's rôle in the cosmos not to allude in passing to the profound and abiding significance of the Kabbalistic mythopoeic thinking on this subject.

Leaving aside the system of Gnostic Metaphysics or Theosophy which explains the relation of God to our present world of darkness and evil, let us lift out and state briefly that part of the doctrine which is relevant to our present purpose. The bold principle of man's responsibility for God's fate in the world, the influence of man through the acts of his life on the destiny of the universe, is felt to be in line with an age-old conception in Judaism, namely that man's heroism adds strength to God. Further, that the Shekinah is in exile and that it is man's function to redeem and restore it to God, now becomes one of the basic themes of Kabbalistic-Lurianic thinking. The process of restitution is called *Tikkun*, and essential parts of that process are allotted to man. The Jew has it in his power, through *Mitzvot* and Prayer, to accelerate or hinder the process. The *Tikkun* restores the unity of God's name. It is the true purpose of the Torah to lead the Shekinah back to her Master, to unite her with him. Prayer is a mystical action with almost magical potency in proportion to its intensity. Everything is in exile. But the Jewish exile, the Galuth of the Jewish people, is a mission to enable them to uplift the fallen sparks of the Godhead from all their various locations. That is why Israel is fated to be enslaved by all the nations of the world, so that Israel may be in a position to uplift those sparks which have fallen among them. The doctrine of *Tikkun* thus raised every Jew to the rank of protagonist in the great process of restitution, namely the extinction of the world's blemish, the restitution of all things in God.

The principle of the cosmic and metacosmic power and responsibility of man was never preached so proudly. Our world is the world of man. Man, in accordance with the original intention of his creation, is to be God's helper. All of freedom has gathered itself into man, he has the full heritage of freedom. All creatures and creation wait for him; God waits for him. All worlds hang on his works, all worlds look and yearn for the teaching and good deeds of man, for that concentra-



tion and intensity of acts and prayer whereby alone the Shekinah can be redeemed from its deep humiliation in banishment and united with God.

Man has freedom, he can choose God or reject God, he can lead the world to perdition and to redemption.

The creation of this being Man with such power of freedom means that God has made room for a co-determining power alongside of himself. Man is the cross-road of the world.

To ask whether God cannot redeem the world without man's help, or whether God has need of man for his work, can lead only to quibbling. In history we see that God waits for man. It is clear then that God has willed to use man for the completion of his work of creation and to allow him autonomy in that work.

For further development of these and related ideas the student can consult the great work of Gershom Scholem, *Major Trends in Jewish Mysticism*, and the popular essays on Hasidism by Martin Buber.

We here must pass on from this staggering and immense exaltation of man's function for God and the universe to the more sober and less mystical estimate, none the less high, of Israel's function within history. That more feasible function is to convert mankind to the One God. God is the great patrimony, God the special assignment or "burden" of Israel. Other peoples may have other special and indispensable assignments for the world's economy: the special concern, the special lot and allotment of Israel is God.

"If you do not proclaim my Godhead to the nations I will punish you" — **אם לא תגידו אלהותי לאו"ה הרי אני פורע מכם** (Lev. R. Romm 10b col. 1). "God did a kindness to Israel in scattering them among the nations." Pesahim 87b. **צדקה עשה הקב"ה בישראל שפזרן לבין האומות**.

"Hosea says (2.25): 'And I will sow her unto me in the land.' When a man sows a measure he expects a harvest of many measures. Thus God exiled Israel among the nations only in order to increase the number of proselytes who will join them" — (Pesahim 87b). **לא הגלה הקב"ה את ישראל לבין האומות אלא כדי שיתוספו עליהם גרים**.

The proselytes are as dear to God as Israel itself. "It is written in Hos. (14.8): 'They shall return, dwelling under his shadow.' 'These,' says R. Abbahu, 'are the proselytes who come and take shelter under the shadow of the Holy One blessed be He. . . They become the root just like Israel.' . . God said, 'The names of the proselytes are as pleasing to me as the wine of libation which is offered to me on the altar . . .'" (Lev. R., Romm 2a col. 2 and many other passages in the Midrash).

The ingathering of proselytes in the fullness of time is the theme

of great hymns of the Synagogue, of the second half of the *Aleynu* which concludes every prayer service, and of the magnificent *ויאחיו* which occupies a place in the *Musaf* of each of the High Holydays (ed. Birnbaum, pp. 373 and 801).

But that conversion and ingathering of the peoples is of course not the result of intellectual debate and argument, it does not proceed on the plane of peaceful dialogue and persuasion. The suasion is far profounder and bloodier. It is a matter of exemplary life, and its consummation is often a death of martyrdom. It is tragic suasion.

We are not going too far afield in summoning Yehuda Halevi as the witness to the kind and depth of suasion which Israel must practice to bring the world to its side, because he sums up the Jewish experience in this area. In a memorable passage in the *Kuzari* (IV, 23) he has recourse to one of mankind's supreme images, that of the dying seed. He likens the nations of the world to the soil, and Israel to the seed which is dropped into the soil and trodden underfoot and seems to be completely obliterated and destroyed. But it is only seemingly dead, dead for a greater and more glorious re-birth and life. By the magic alchemy resident within the higher form of the seed it transmutes the lower form of soil and loam into its own higher grade of life, and gradually a tree will grow up in which all will have a part, a single growth in which all will be embodied, due however to the active life-principle within the seed. And in the end those members of the tree which had looked down upon and despised it will acknowledge its supremacy, its inherent transforming power.

This characterizes the Jewish experience at its incandescent white heat, and there is a verse in the Ps. (109.4) which very properly is used as its summing up: "In return for my love they are my adversaries, but I am all prayer." *תחת־אהבתי ישטנוני ואני תפלה*. — There is definite awareness of what is later known as vicarious atonement, awareness namely of that heart and centre of the religious sentiment whereby we feel that we are all bound together and that the best of us are known by our willingness to bear the burden of the worst.

A formal statement of vicarious atonement occurs in several places in the *Midrash*, and we have already quoted one such representative statement (*Cant. R.*, Romm 13a col. 1, and 23a col. 1). But there is also a more ominous and profounder touch, namely the intimation of why there should be suffering at all and how much of it must be borne until there can be a turning. Schelling, the last of the world's great theosophists, basing himself on Jacob Boehme and on Gnostic Manichean heresies with a deep sense of the rift at the very heart of things, declared that all evil must be tried out. This is a terrifying prospect

for the bravest; and for the easy optimist and progressivist it is so disconcerting as to be unbelievable. But this is the view held in their own way by the Rabbis, and taken over from them by the Kabbala because of its deep sympathy with the tragic dualism informing the heretical Gnostic sects through the ages. It was God's decree that before the Messiah Redeemer can come, Israel must suffer banishment to all and persecution from all the seventy nations of the world. And when the Messiah's coming is prematurely announced they turn in wonderment to the Messiah, and he in the attempt to soften the dread decree re-assures them with the statement that even if only part of Israel had been made to suffer by only part of any one of the seventy Gentile nations (provided all are represented), it will be accounted as full measure both ways (Pesikta 47b, 48a, b and note 98; Cant. R., Romm, 16b, col. 2; Pesikta R. 71b).

There is indeed, both in the liturgy and in the Midrash, a frequent assumption of guilt to account for the suffering; but that is a magnificent and generous gesture of self-castigation which can be and has been misunderstood. The true view is, **כִּי עָלֶיךָ הִרְגָנוּ כָּל הַיּוֹם**, "For thy sake are we slaughtered day by day." The suffering does indeed purify them from sins, but they are also the lamb **כֶּבֶשׂ** or the dove **יֹנָה** on whom all evil and suffering must be tried out, because of some dread and ominous feature in the scheme of things whereby light can come only after all darkness, and goodness only after all evil, has had its day, and where the elect must bear the burden of the world by taking upon themselves all responsibility and all suffering.

That is the Jewish experience at its incandescent white heat, the truth as it concerns the "remnant" or ideal Israel, into which the great mass are lifted or dragged up in the peak dread moments of history. But the Jewish religion would not be the classic religion that it is, if it did not also have the poise and balance to take a humorous and honest view of the empirical everyday Jew in the broad breathing spaces of life.

Let us take four examples of Agada which give expression to the human, all too human, character of the Jew in four different phases.

The first is one of the most famous of all Agadot. Jacob is asleep out in the open with a stone for a pillow, and he dreams of a ladder propped on to the floor of heaven, with angels ascending and descending. Each angel (the guardian angel of some one people) goes up a certain number of rungs and then descends, but the angel of Edom (i. e. Rome) seems to go up and up without ever turning back. Jacob is afraid that the power of Rome will last forever. "Fear not, Jacob,"

God re-assures him, "even if he rises and sits by my side, from there I will cast him down."

That is the first great half of the story. Small Israel is pitted in a world-historic struggle against all the empires and against mighty Rome, and cannot be defeated in the end.

But the remaining half must also be told. God asks Jacob likewise to ascend. But Jacob is afraid, thinking he too will have to descend like the others. He does not trust God and refuses to try. For that lack of faith he is punished by the miserable oppression of his children throughout their exile, *א"ל הקב"ה אלו האמנת ועלית לא היית יורד לעולם*. If thou hadst had faith and ascended, there would have been no descent for thee. But now, since thou wast lacking in simple faith in God, thy children will be enslaved by all the four Powers of the world."

Thereupon he is again afraid that the oppression may last forever, and has to be re-assured again with the verse from Jer. (30.10-11): "Fear thou not O Jacob, neither be dismayed O Israel, for lo I will save thee from afar, I am with thee to save thee." (Pesikta 151a; Lev. R., Romm 42a).

The second Agada is even more poignant. The Israelites have just experienced the supreme event of history, the theophany at Sinai. Without further ado they lapse into the idolatry of the golden calf. Moses descends with the Tablets, but as he looks at them he perceives that the Ten Words have disappeared, have gone with the wind, the Tablets are a clean slate. He thereupon shatters them at the foot of the mount and is himself struck dumb and unable to utter a word. At that moment, a decree was issued concerning Israel that they would from now on have to study those Words (i. e. the Torah) in the midst of distress, grief and hunger.

באותה שעה נגזרה גזירה על ישראל שילמד אותן מתוך הצער ומתוך השעבוד מתוך הטילטול ומתוך הטריוף מתוך הדחק מתוך שאין להם מזונות (Seder Eliyahu, ed. Friedmann, p. 117).

There is thirdly the profound legend of Joshua b. Levi's meeting first with Elijah and then with the Messiah himself who is stationed among the sick and the lepers outside the gates of Rome, himself also full of sores and wounds. All the others uncover all their wounds and then bind them all up again, but he uncovers and binds up each one separately, for he thinks "Lest I should be summoned and detained." Joshua b. Levi asks him, "When is the Master coming?" The answer is of the utmost pathos and irony, the single word "Today." Joshua returns to Elijah who congratulates him on the promise to himself and to all Israel. "He lied to me," is the Rabbi's response. "He said he would come today and he has not come." To

which Elijah replies with a verse from the Ps. (95.7): "Today, if ye hearken to God's voice." — **היום אם בקולו חשמעו**. The Messiah could come any day if the Israelites would hearken to God's voice for one single day (Sanhedrin 98a).

The concluding Agada is in a sense the most disconcerting, for it seems to contradict the whole theory of Jewish suffering, namely that Israel suffers vicariously for the rest of the world and thus is the first and major bearer of the brunt of suffering. No less a person than Johanan has the following: "Any affliction in which Israel and the Gentiles are partners (i. e. equally affected) is an affliction, but any affliction of Israel by itself is not an affliction."

**כל צרה שישראל ואו"ה שותפין בה צרה, וכל צרה של ישראל עצמן אינה צרה** (Deut. R., Romm 103a col. 1).

It is obviously meant as a commonsense salutary correction of any morbid cult of martyrdom. It is not a contradiction of the unique signature of all of Jewish history, but it is a rare and isolated though all the more necessary caution urged by a great Rabbi against overdoing the cult of suffering. For who needs to be told that Israel has had afflictions, untold in number, all by itself, which were the most veritable of all afflictions?

There is one final theme to round out our present series of considerations: the sense of chosenness which the Rabbis have of the Jewish people as the centre of the whole economy of history, and the sardonic humor which the Rabbis have about it, in the attempt to maintain the chosenness as a matter of course and still to be fair with the other nations.

There are two famous passages dealing with this theme, in two of the oldest and most authoritative Midrashim. The one in Mekilta remarks blandly: "The Torah was given in the desert, in no man's land, in all men's land, for all to come and take if they so desired." It would seem that no one but Israel put in an appearance. (Mekilta Lauterbach II, 198; Friedmann 62a).

The passage in Sifré (ed. Friedmann 142b) is much more sardonic: When God decided to reveal the Torah to Israel, it was not to Israel alone that he revealed himself but to all the nations. He first went to the children of Esau and asked them, Will you accept the Torah? They replied, "What is in it?" He answered, Thou shalt not kill. To which they said, "The very essence of our father is killing, as is written 'By thy sword shalt thou live' (Gen. 27.40)." God then went to the children of Ammon and Moab and asked them the same question,



"Will you accept the Torah?" to which they reply with the same question, "What is in it?" God is wary this time and he quotes a different commandment, namely, "Thou shalt not commit adultery." To which they offer the prompt reply: "Adultery is of the very essence of their being," and they quote in support the story of the compound adultery and incest of the two daughters of Lot with their father, ending in the verse 'Thus were both the daughters of Lot with child by their father' (Gen. 19.36), which children were Moab and Ammon. God then sought and found the children of Ishmael, and by the same procedure they hear that the Torah commands, "Thou shalt not steal," to which they retort: 'That is the very essence of their forbear, as is written, "And he will be a wild man, his hand will be against every man and every man's hand against him.'" (Gen. 16.12). There was not one nation among all the nations, our text continues, whom God did not visit and knock at their door and speak to, leaving it to those who were willing to come and receive the Torah. לא היתה אומה באומות שלא הלך ודבר ודפק על פתחה אם ירצו ויקבלו את התורה.

The spectacle of God peddling the Torah from door to door is edifying. The Gentiles had their chance. They refused a Torah which interfered with their favorite pursuits.

But let no one think that the Rabbis indulged in the belief that the Jews lacked their share of killers, adulterers, and thieves. Such foolish beliefs are not feasible. And they are bothered to explain the chosenness of Israel in the face of the common humanity of all men. The chosenness, the special love God bears for Israel, seems beyond reason. For are the Jews better than the others? Surely both are sinners. There is no clear ground for a special predilection. Love must be an aboriginal arbitrary choice, an opaque attraction.

Thus we read in the Midrash on the text in the Song of Songs (8.8), "We have a little sister": "In the time to come, all the guardian angels of the nations of the world will come and accuse Israel before God, saying, 'Sovereign of the Universe, these worshipped idols and these worshipped idols, these were whoremongers and these were whoremongers, these shed blood and these shed blood. Why do these go down to hell while these do not go down?' God will say to them '“We have a little sister”: just as a child, whatever it does, is not reproved because it is but a child, so however much Israel may be defiled by their iniquities throughout the year, the Day of Atonement comes and atones for them.'" (Cant. R., Romm 40a col. 2).

We see then, God can find no better reason for indulgent favor towards Israel than the utterly arbitrary ground that it is an innocent

irresponsible child, for whom in addition the Day of Atonement restores innocence perennially.

Again: "In the time to come the guardian angels of the nations will come to accuse Israel before God and they will say: 'King of the Universe, these worshipped idols and these worshipped idols, these acted lewdly and these acted lewdly, these shed blood and these shed blood. Why then do these go down to Gehinnom while these do not go down?' Then God will answer them saying: 'If that is so, let all the peoples go down with their gods to Gehinnom, and so it is written (Micah 4.5), "For let all the peoples walk each one in the name of its god." ' Said R. Reuben: 'Were it not written in the Scripture, it would be impossible to say such a thing, namely "For by fire will God be judged," כי באש ה' נשפט (Isa. 66.16). It does not say שופט (judges) but נשפט (is judged)' " (Cant. R. 40a and Mid. Ps. Buber 11a and Mid. Ps. to 1:3).

So then all peoples, including Israel, go to hell, each one dragging his own god with him. And there in hell God saves Israel and delivers him; or can it be the other way? The grammar is somewhat tricky here. In any case the Rabbis are under no illusion as to any rational ground they can adduce for God to bear a special love for Israel. There is no reason for love, seems to be their conclusion.

And in truth chosenness is far more than love, it is ineluctable destiny: The individual Jew may drop away, but Israel as a whole is held inexorably fast. Thus Johanan, the prince of the Agada, has the following to say in explanation of God's ontological definition of himself as אהיה אשר אהיה, "I can be whatever I may be to individuals; but as for the mass I rule over them even against their desires and will, even though they break their teeth" (referring to Ezek. 20.33) אהיה לאשר אהיה ביחידים, אבל במרובים על כרחם שלא בטובתם כשהם משוברות שניהם (Exod R., Romm 11b col. 2).

And of course, even though chosen, God so far from playing favorites, imposes special burdens and special responsibilities on Israel. The prophet's stern reminder that special rights bring special duties ("You only have I known of all the families of the earth, therefore I will visit upon you all your iniquities," Amos 3.2) holds with equal force on Israel's later career. The protagonist must bear burdens commensurate with a protagonist's rôle.

### 3

In attempting to state in philosophic terms the main ideas at the core of the Agadot which we have been considering in this long middle section of our essay, certain sobering thoughts as to the value of

philosophy must accompany us and must be set forth as premise. And they are, first, that whatever in philosophy is capable of translation or transformation into poetry is alone vital and valuable; and secondly, that whatever has originally been conceived as myth is alone real and effective, for it is something capable of being believed and therefore loved. With that in mind we can proceed to state, in programmatic fashion, for whatever clarifying and pedagogic value it may possess, the main heads and captions of philosophic thinking present in solution in the Midrash and capable of being abstracted and formulated.

First there is the theory of tragedy implicit in the Rabbinic reflection on Jewish suffering, to be compared and contrasted with other theories of tragedy which have been set forth from academic and from pagan points of view.

Secondly there is the idea of man as the helper of God and co-creator with God, which carries with it implications in two important directions: —

First, metaphysically, to the effect that the future is genuinely open and not pre-determined in advance; that creation is unfinished and continuing; that time is real, against the claims of eternalism that time is an illusion and the perfect present at the start; and that all monism is wrong, meaning that the universe is not a homogeneous single whole and really not a universe, that there is a rift in it, that it is a pluralism or at least a dualism, and its unification in the highest sense has to be achieved, i. e. it is a growing world, a world in process.

The second implication under this important heading lies in the correct apprehension of the mutual relation of God and man: it is a relation of mutual polarity, of give and take or reciprocal enrichment, resulting in the slow change and growth not merely of man but of God, God needing man as much and owing as much to man as the other way about; resulting also in a plausible theory of prayer; and resulting finally in an activist conception of life, as being more than a dream or a pageant of the imagination, but also more than the emptiness and nothingness which Catholic Christianity and Buddhism conceive it to be at bottom.

The final aspect of Rabbinic thought or reflectiveness and outlook which we single out in our theoretical formulation of its main features we shall call Humor, not of course in the sense of the comic or witty (the small humor), but on the contrary as one of the deepest elements in its attitude towards life (the great humor), something which has gone through tragedy and passed beyond, and is the concluding word in mellowness and perspective and ultimate serenity.

Tragedy arises through our sense of the contrast between what the good man ought to get and what he does get. What he ought to get is happiness; what he does get is pain, disaster and death. Supreme tragedy arises when the best man suffers the worst fate.

Tragedy thus upsets the initial view held as to the relation between virtue and happiness. The initial view is that suffering is a punishment for sin, and that virtue and happiness go together. This is the view, say, of the friends of Job in the face of Job's calamity. And say what we will, it is profoundly rooted; that virtue and happiness imply each other is a basic demand of our conscience. The disturbance which the primitive view suffers is only provisional; it persists after some thought-taking and sober readjustment.

Granted then that the suffering is not a punishment for sin, as must be evident to the thoughtful and honest person, the happiness still demanded to equal or balance the goodness is transferred to another world, it is reserved for a life to come. Thus traditional religion. But thus also philosophy. Kant at the peak of philosophy postulates a God to adjust the balance between our deeds and our rewards, also as assurance of the validity of the moral world-order. And in its last and deepest phase philosophy does not leave the sufferer to himself. The sombre view held by Royce (in whom Hegel culminates) is that the sufferings are taken up into the consciousness of the ultimate world-mind or Absolute, and as details or elements in that grandest setting are seen to be needed for the full experience of God, and are thus explained and justified. The good and the innocent are not allowed to have suffered for nothing. The tragic aspect of the good man's life serves a higher and highest purpose; the tears of the oppressed, דמעה עשוקים, will find their explanation and transfiguration.

But the true theory of tragedy rejects all this. The hero accepts the suffering not for any reward but for growth in greatness. The alleged transfiguration of the hero's suffering within the Absolute is felt to be a cruel farce; because, first, it is not clear how that transfiguration takes place and it looks like verbal juggling or self-delusion, and secondly even if it did take place it does not touch the main point, namely it does not undo the actual suffered anguish. It may be good for the putative Absolute, but not for the sufferer.

The tragic hero accepts whatever suffering that comes to him, as part of his greatness. He acts as the heroic focus of the world. His reward is that he grows in greatness.

With this conception of the grandeur of man which they have in common, the two highest theories of tragedy diverge in a final and supreme respect.

The highest pagan theory of tragedy (as summed up by Nietzsche)

would say: the tragic hero ("der tragische Mensch") accepts all the agonies of life because of the wonders of life; if that is the price, he is willing to pay it. But there is no goal or plan and, of course, no God. There is a vast ocean of Becoming, and eternal recurrence, and finally "der tragische Mensch" to face it.

The Jewish theory of tragedy at its highest likewise puts the emphasis on man and man's intrinsic greatness. Man stands on his own and accepts his burden without any view of external reward or relief. Take the great tragic symbolisms and images which Judaism has invented. Thus the Suffering Servant: God is a poor figure in the background, allowing the injustice to be done. Job: God is clearly in the wrong and wins by browbeating. Akiba: God waits for Akiba to assert him, God; otherwise God is muted and impotent.

But the difference of the Jewish from the Pagan view is this: that, in spite of God's inadequacy or absence, the Jewish heroes all proclaim and postulate God, proclaim a belief in God in a godless world, and perhaps in that way help to call him into being and give him strength. That is a capital difference and makes of them the classic of the religious life. They see God through, and so give power to his emerging substance, whereas Prometheus, the greatest creation of Greek tragedy, brushes God aside and is content to be pure humanist and atheist. Man is sufficient unto himself, and the Promethean world-view is a humanism divorced and truncated from the vast background in which it is rooted.

What both views have in common is the refusal to be resigned, a certain activism or dynamism. But if, in the Pagan view, the tragic hero is ready and willing, for the sake of life's grandeur and wonder and beauty, to accept life's horrors and sufferings, even though it will always recur that way without abatement or assuagement, the Jewish view holds that the horrors and sufferings of life are man's task to convert, to make them over and make them other and make them less. God may just be emerging from the vast ocean of Becoming and therefore of little actual power (of great light but of little power); but man emerging with God and through whom God acts, will continue to say "Though God slay me (or suffer me to be slain) yet will I trust in him," (Job 13.15) and eventually there will be no more slaying. Men must be עושין מאהבה ושמחין ביסורין, they must accept יסורין and call them חביבין, they must save God's face by calling יסורין a mark of God's love, they must insist that there is a God because there can, must and will be one, and by that heroism will help to make God real and extend his kingdom. It will *not* always recur that way as the Pagan maintains; something *is* being achieved as our teachers



maintain, namely the *Tikkun* of the world and the *Yihud* of God, the rectification of the world and the integration of God, through the labor of the God-inspired and God-bearing man.

There is a stupendous metaphysic of definite type and character implied, a certain kind of world presupposed, in all the various expressions of the Rabbinic mind which we have been passing in review and in Jewish thinking before and after. The Rabbis are of course not aware of any system, for they are not abstract thinkers nor philosophical system-builders; and if we try to lay bare and bring to the surface what is merely implicated and inherent, it may seem like an arbitrary imposition. But we are to remember that the creation is always first, and only after the actual finished achievement can one proceed to unravel the theory or rationale that has been at work in it. So in our present instance of Jewish creative thought we have a bold adventurous imagination making a magnificent anticipation of modern philosophy in its own terms of myth, parable and image; and what needs to be done for a later age to realize what is involved is to translate it into the idiom of abstract terms.

That Jewish thinking is temporalist, not eternalist, is clear to anyone who is at home in it. Eternalism occurs late in isolated cases as a result of mystical and philosophical influence. But, for Jewish thought the victory of God's cause is not a foregone conclusion, hence time as the medium of effort is the most real of things.

That creation is unfinished and that the future remains to be woven, is testified by the one fact of the Messianic ideal. This goal of all time and event has to be achieved and created through the most real and the bloodiest effort. That God has an environment and opposition is indicated by the fact that the unity of God is a postulate and has to be achieved through the whole course of time. "On that day the Lord shall be one and His name shall be one" is the prophetic utterance (Zech. 14.9) which is quite knowingly placed at conspicuous points in our liturgy (in the *Musaf* for Rosh Hashanah at the end of the *Alenu*, of the *Kedushah* and of the triumphant *Kol Ma'aminim* (ed. Birnbaum, pp. 337, 365, 371). On that day God shall be one, that is at the end of time, not before. And the act of making God one, the *יחוד השם*, is so real and bloody that the locution becomes one of the synonyms for martyrdom.

Of course the formal distinction between God and the rest of the universe (God's "environment"), between *מלך* and *הקדוש ברוך הוא* is never made: that would run counter to all psychological need and religious habit. It is implied in fact but never admitted as theory. Only occasionally is there a deliberate identification of the two. Thus,

in the great nature Psalms used for the Friday evening services, the God of Nature is identified with the God of Justice; the God of the thunderstorm promises to come to judge the world with righteousness (Ps. 96.13 and 98.9). And Maimonides identifies his Infinite Unknown with the God of the Ten Commandments. But the Psalmist is a gorgeous and sanguine anticipator of the End, and Maimuni does flagrant and unabashed violence and outrage in forcing Plotinus into Moses. Actual Jewish religious practice and thought has הקדוש ברוך הוה fighting a valiant battle against the מלך העולם, mostly with pathetic results.

The next theme, involving the correlation of God and man in a polarity of give and take, of mutual influence and reciprocal enrichment, is the crucial chapter in any living and hopeful theology of the future. If we are to avoid the two great failures and blind alleys of religion, an utterly transcendent God and a self-sufficient and godless humanism, we shall have to cultivate and develop the notion of interaction between the two poles of the emerging higher world. They must both do something for each other or they don't need each other. All the various themes of this great area of religion fall into place on the basis of such a theory.

Thus prayer as the converse between a soul and a great reservoir of power: two centres dominating an environment and seeking each other. They must of course find each other and meet; that is their problem. That they can and do meet is the incontrovertible testimony of certain souls, whose experience whether subjected to scientific scrutiny in a book like James's *Varieties of Religious Experience*, or speaking with unfailing success to all climes and ages and peoples in so supreme a record as the Book of Psalms; is ample proof. What does God give? Light and support for faith. What does man give? Faith and added power.

If they help each other, each must be greater than the other: that is not a paradox in a genuine polarity. God is greater as source and giver of light. Man can be greater in what he develops and offers as return gift to God. Abraham is better than God and tells him what justice is. The Suffering Servant is more loving, Job more truthful and courageous, and Akiba more heroic and godlike, than God. They enrich God with new visions, make him realize his own possibilities in them. There is nothing absurd in a product being superior to its own ground or cause: that takes place in every creation. That is what time and freedom are for. Creation is always inexplicable purely in terms of what preceded, the effect is always more than the cause.

Only science operates with the initial stupidity that nothing can be gained or lost, that birth and becoming are always merely a re-shuffling of given elements. Life is growth and growth is creation and creation is the wonder of something genuinely new.

Now the world gives birth to saints and heroes who are so much grander than anything the world contains that they alone confer upon it meaning and sanctity; and having given birth to them the world allows them to perish.

Here we stand at the crossroads. If we allow God and the world, God and the great creativity of the ocean of Becoming, to telescope together and act as one, we are in a bad way. What could ever change their course? We are where Nietzsche was: the eternal recurrence, an immense pageant of dramatic thrill, terror and beauty, but certainly no hope and no culmination in love and redemption.

But, if we distinguish between the two, we can begin to avoid despair, though the temptation to despair is enormous. Till now there has never been a saint or hero whom God has not allowed to die forsaken. Is the inference that the world gives the lie to the best and highest it produces and is therefore itself a heartless lie? That would indeed be a counsel of despair. Let us take heart and call that inference a *non sequitur*. There is one way out, namely that the creative God can learn through the re-entrance into himself of his highest manifestations, and grow into something as good as his own highest miracles. That would indeed be the most momentous event in all events, the supreme problem for any philosophy and theology to contemplate and the supreme truth to establish. And is it so inconceivable in a world really alive and growing that the great consciousness in which we all participate can receive back into itself and be enriched by its own highest spirits? God from being mere creativity must become light, and from being mere light must become person and from being mere dramatist must become lover.

So then God needs man to redeem and restore the Shekinah, to exemplify God's sublime possibilities, to translate God into the real, and to unify the new God with the old world. And if man needs God to forgive him for failings and shortcomings, God too must be forgiven for whatever share he may have had in the dread fate which is allowed to overtake the Suffering Servant and Job and Jesus and Akiba. It is no idle conceit when the poet addresses that God who is the מלך העולם with the words —

"For all the sin wherewith the face of man  
Is blacken'd, man's forgiveness give — and take!"

The sacred heart of man fighting for a God may need forgiveness for its lapses, but must also grant it to a blind, heartless and stupid universe that knows not what it does, whatever Caliban-God or half-blind *élan vital* may be its sovereign.

There are two things further that we must take expressly to heart in this connection. First, that life is more than the mere pageantry which the Shakespearean imagination (a reflex of the divine imagination) would have it, and secondly, more than the emptiness and nothingness which a certain type of religion (Buddhism and Catholic Christianity) would assess it to be. "We are such stuff as dreams are made of and our little life is rounded with a sleep." "Out, out, brief candle, life's but a walking shadow." "All our yesterdays have lighted fools the way to dusty death." These are expressions of an imagination as comprehensive and totalitarian as the world itself, but which, lacking a dominating purpose or bias, ends in resignation and sadness. And when Bossuet speaks of *le vide et le néant au fond*, the nothingness and emptiness of all things at bottom; and when Buddha counsels us to renounce living and desire since desire forsooth ends as ashes in the mouth: they are both of them libellers and calumniators of the glory and wonder and thrill of living. Compare with that the "Go and do," the *זיל גמור* of the Hebraic hero, whatever language he speaks, Puritan or otherwise, and see which of the two you feel to be the spokesman of the world-spirit.

All these directions in which modern philosophy, in its last great almost contemporary representatives (Scheler, Berdyaev, and above all Whitehead), has been arriving at specific and new revisions of the old concepts of religion and philosophy, show deep kinship and elective affinity with the hidden but active forces of Jewish religious thought.

One last concluding respect we must not leave unmentioned because it is indispensable as rounding out any true and valid world-view, and that is Humor. We mean of course the great humor (as Höffding calls it), the final smile of serenity and understanding, the understanding that is close to forgiveness and acceptance, as experience comes full circle. The Jewish religious experience which has plumbed all tragedy, would end in madness without that final smile and forgiveness of the great humor. Humor sees the element of smallness that hangs on to all greatness, the shadow of pretentiousness it casts, no matter how genuine and authentic that greatness may be; and conversely the element of eternal value present in the most trivial and laughable individual. Humor is a final comprehensive judgment, a thought that comes after the sum has been cast up and the synthesis

completed. The Jews regard themselves as the central figure in the whole economy of history, but make fun of it too. God had no special reason for choosing and loving them, but he did. How odd of God!

## V

The proper culmination for a study like the present is the idea of the Messiah. This is a supreme creation of religious genius, for it rests on two new religious insights, on two imperishable thoughts: first, that all men are one, and secondly that they have a future.

But before we go on to this culmination it is worth our while to pass in rapid review certain salient features of Rabbinic thinking in order to complete the picture, — to show its range of interest and to show how wholesome and honest and perennially fresh it is.

And first with regard to that desire or appetite which sets all our activities in motion, and which has such a bad name in almost all religions as the great inciter to temptation. The church name for it is *concupiscentia*, for which I suppose the proper English rendering is "lust"; and what could bring us closer to sin and evil than to follow every object and every direction which we lust after? The Hebrew takes a far more sober and healthy view. The term is *Yezer*. There can be good or bad *Yezer*, but even the bad is good, for *Yezer* means drive, power, indispensable motive force for all action, and with the suppression of *Yezer* we would have the extinction of life. This is an immense anticipation of modern psychology, an intuition of the very dynamic of life itself.

The opinions and utterances of the Rabbis on this subject of desire and of the field in which it chiefly operates, namely love, constitute one of the most fascinating chapters in the entire range of the Midrash. It is a chapter not indeed extensive or overdone, because the Jews do not make a special cult of love, but it is of vast importance for the understanding of Jewish life and, whenever the Rabbis touch on it and whatever they say, their attitude is always of great depth and interest. The relation of the two sexes in the marriage bond, the importance of children, the intrinsic right of love but also its subservience, the lure of love and its limitations, all the subtle dialectic of love when allowed free course, the temptations which love by its special nature involves for both sexes and the corresponding loyalties and devotion for both sexes, all together constitute a most significant contribution to this great central theme of life and the creation of life. We shall have to content ourselves however with two



bare statements. First, the famous utterance "The greater the man the greater his libido" (in Sukkah 52a, as conclusion of a most interesting story). And secondly, the equally famous and bold utterance of R. Samuel b. Nahman. When the Divine Workman reviewing his six days' labor of creation remarks "And behold it was very good," Samuel b. Nahman interprets these words of approval as referring to the evil *Yezer*. For, he argues, without the evil *Yezer* so-called, no man would build a house nor marry a wife nor beget children nor transact business. And he quotes the verse in Eccl. (4.4) concerning "all labor and all excelling in work, that it is a man's rivalry with his neighbors" (Gen. R., Romm, 24b col. 2). Without this rivalry and ambition, without libido and appetite, the business of the world and life itself would come to a standstill.

Education must be the prime concern of any people that wishes to conserve its distinctive character, but quite especially of a people trying to maintain itself without the usual aids of a land and government of its own and trying to conserve a high and unique character under these unusually difficult conditions. Such a people must bend every effort towards shaping and fashioning the soul of its offspring so as to make sure of its future. For education means primarily children and children mean primarily future. And it is this will to the future which marks it off from other peoples, and makes it regard the future as greater than any past no matter how great that past has been. This superlative valuation of a past which must at all costs be conserved, and at the same time the refusal to be overwhelmed by it, the due regard for future creativeness and future responsibility, is likewise a salient feature of Rabbinic thinking. Self-creation at all times, education in this most intense and incisive sense of the will to continued life, is a profound mark of the authentic Jewish character.

Let one Midrash speak for many. "When Israel stood to receive the Torah, the Holy One, blessed be he, said to them: 'I am giving you my Torah, bring me good guarantors that you will guard it.' They said: 'Our fathers are our guarantors.' The Holy One, blessed be he, said to them: 'Your fathers are unacceptable to me. . . Yet bring me good guarantors and I shall give it to you.' . . They said: 'Master of the Universe, our prophets are our guarantors.' He said to them: 'The prophets are unacceptable to me. . . Yet bring me good guarantors and I shall give it to you.' They said: 'Behold, our children are our guarantors.' The Holy One, blessed be he, said: 'They are certainly good guarantors. For their sake I give the Torah to you, as is written, "Out of the mouths of babes and sucklings hast Thou founded strength"' (Ps. 8.3) (Cant. R., Romm, 7a).

Honesty in looking the facts in the face, the refusal to indulge in "soft soap," in lush and saccharine prospects and promises, is another characteristic of the Rabbinic outlook. In the end this stern realism pays off better than the love assurances which the tender-minded so eagerly look for. For these are invariably boomerangs. When today the word is handed out by means of all the instruments of mass communication, during a so-called religious hour, that God is love, what can that mean to the hundreds of millions of the human race for whom the opposite is true? It would be truer to their experience to say that God is wrath or that God is hate. That which should be a sublime goal is changed into a sordid makebelieve, and all honest effort and honest emotion falsified.

We all have to face two ineluctable facts: first, that each one of us is born into a certain status or condition with which we must reckon from the very start: we are born either white or black, bond or free, handsome or ill-favored, gifted or mediocre, and our life is decided for us three-fourths of the way in advance. Secondly, there is no forgiveness for our mistakes: everything is collected, everything paid for, everything recorded, nothing erased, nothing forgiven. Let the Midrash speak its mind on these two themes.

On the text at the beginning of Genesis that "God created the heaven and the earth and the earth was *tohu* and *bohu*," there are two Midrashic parables in which the strange words describing the earth are taken to mean "bewildered and astonished." "R. Abbahu said: 'This may be compared to a king who bought two slaves on the same bill of sale and at the same price. One he ordered to be supported at the public expense, while the other he ordered to toil for his bread. The latter sat bewildered and astonished: 'Both of us were bought at the same price,' exclaimed he, 'yet he is supported from the treasury whilst I have to gain my bread by my toil!' Thus the earth sat bewildered and astonished, saying, 'The celestial beings and the terrestrial ones were created at the same time: yet the celestial beings are fed by the radiance of the Shekinah, whereas the terrestrial beings, if they do not toil do not eat. Strange!'"

R. Yehuda b. R. Simon said: "Compare this to a king who bought two bondmaids, both on the same bill of sale and at the same price. One he commanded not to stir from the palace, while for the other he decreed banishment. The latter sat bewildered and astonished. 'Both of us were bought on the same bill of sale and at the same price,' she exclaimed, 'yet she does not stir from the palace while against me he has decreed banishment. How passing strange!' Thus the earth sat bewildered and astonished, saying, 'The celestial and the terrestrial beings were created at the same time: why do the

former live forever whereas the latter have to die?' Hence, 'And the earth was *tohu* and *bohu*,' bewildered and astonished."

The earth sat bewildered and astonished at the initial inequitableness in the distribution of gifts.

On the text in Joel 2.13 "Turn unto the Lord your God, for he is gracious and compassionate, long-suffering and abundant in mercy and repenteth him of the evil," the Rabbis comment as follows: R. Johanan says, "God is long-suffering before he collects, but once he begins to collect he takes a long time in collecting." מאריך רוחו עד שלא יגבה, בא לגבות מאריך ונובה. R. Hanina says: "He who says that God is lax, his bowels shall be relaxed. He is long-suffering but He exacts his due." א"ר חנינא מ"ד רחמנא וותרן הוא יתוותרון בני מעיו אלא מאריך רוח ונובה — (Pesikta 161b; Yer. Taanit 65b).

And similarly in the solemn description of the Judgment contained in the famous *prayer* *נחנה הוקף* which is the highlight of the *Musaf* for Rosh Hashanah and Yom Kippur, God is described as judge, prosecutor, expert and witness יודע ועד, מוכיח, דיין; and if God is all that in one, it can hardly be called a fair trial, not to say a sympathetic or indulgent hearing. So likewise the Greek proverb concerning anyone who undertakes to appear in a trial before Zeus: Jove's dice are always loaded. *Διὸς αὐτοὶ ἀεὶ ἐμπόπτουσιν*. The court is packed, the gods are always right.

With that situation in mind, the old proverb is thrown up to God "not to pull the rope at both ends." R. Levi said: "If it is the world thou seekest, there can be no justice; and if it is justice thou seekest, there can be no world. Why dost thou grasp the rope by both ends, seeking both the world and justice? Let one of them go, for if thou dost not relent a little, the world cannot endure" (Pesikta 125 b. Gen. R. Romm 79b, col. 1).

To which the proper sardonic retort on the part of God would be the variation he gives in the Midrash of the words he utters through Jeremiah. Jeremiah makes Him say "They have forsaken me and have not kept my Torah" (16.11), but in the Midrash God takes the liberty of changing that into the bold invitation, "Would they had forsaken Me, provided they had only kept My Torah." The permission to neglect the religion if they would only practice the morals, is interesting and not so generous as it sounds. For he goes on to add, "The leaven or ferment in the practice of the good would have brought them back to Me" (Pesikta 121a). And that is true. Ethics inevitably leads in the end to religious assumptions: the fate of the good, and of the good man, can never content itself with the defeats this life offers. It demands conservation; it has to have the faith that the best things are also the most eternal. And the dialectic

which subsists between the good and the religious is of deep concern to us all and needs to be understood. A man can be said to believe in God only insofar as it is an inference from his behavior, and then his saying so is unimportant. He can say he believes in God and really be an unbeliever and denier by his life. He can in rare cases say he does not believe in God and still have his life belie the denial: there have been great saints who were indifferent to professing God, such were men like Shelley and Eugene Debs and John Stuart Mill and others who were rooted in the divine no matter what they said. The last mentioned is particularly interesting because he is a confirmation of the text in the Midrash. His posthumous "Three Essays on Religion" land in religious belief after a lifetime of agnosticism and freethinking, because his profound interest in the good forced him into religious assumptions, and that is a phenomenon of utmost interest to all students of this question.

We come at long last to the Messiah. This is indeed the zenith or dazzling sun in the whole firmament of Jewish religious thinking. As the prophets had lifted religion from a tribal and particularistic basis to the plane of justice and goodness, and so made it the concern of all men, and indeed thereby discovered the idea of a single mankind, so the figure and image of the Messiah is the coping stone of that structure. He was indeed originally conceived in national terms as savior and redeemer of the Jewish people, but he presently becomes the savior and redeemer of the world by ushering in a reign of peace and welfare for all men. He heals the wounds of the sorest and most afflicted people, and that is possible only after all other and lesser afflictions have been healed. He is the light of the world, the concrete but symbolic embodiment of the Kingdom of God on earth.

And epoch-making in the maturing of human thought as is the idea of a single mankind, the idea of the future as replacing a golden past is equally decisive in marking the passage of mankind from childhood to manhood, from dreams and nostalgia to hardihood and achievement.

And this is also the line of cleavage between Christianity and Judaism which, starting from a common source, part company on this crucial and fateful question as to whether the Messiah is still to come or has already come. Christianity, by throwing in its lot with the childhood of the race, condemns itself to its immature mythology; and Judaism by severing itself from powerful protection adds woefully to its already tragic lot. The real accentuation of its tragedy stems from a brother's hatred.

What does the Messianic future promise? Everything from the

abolition of war to the abolition of death, i. e. beginning with something so feasible as to be on the agenda of the council of nations today, and ending with something so utterly transcendent as the assault on the citadel of perdition itself.

Naturally the temptation to indulge the fantasy in picturing relief from human miseries is very strong, but it will be found on examination that, in the recital of Messianic measures, the note of sober sense and steady thought prevails even when it seems to hover on the borders and realm of the fantastic.

And first of all the authorized spokesmen for Judaism stress the note of feasibility. Thus Mar Samuel, most sober-minded of Rabbis: "There is no difference between the present world and the days of the Messiah except the oppression by the great kingdoms alone" (Berakot 34b). And Maimonides, who sums up Jewish tradition as no other, adopts and quotes these very words at the end of his code (Hilkot Melakim XII 2). And he says expressly there will be no change in the course of nature, no thaumaturgy, no *חדוש במעשה בראשית אלא* (ibid. XII 1). The only change will be the absence of hunger, war, envy, and hatred and, in their place, an economy of plenty, so that all will have the leisure to devote themselves to the study of religion. — ובאותו הזמן לא יהיה שם לא רעב ולא מלחמה ולא קנאה ולא תחרות שהטובה תהיה מושפעת הרבה וכל המעדרים מצויין כעפר ולא יהיה עסק כל העולם אלא לדעת את ה' בלבד (ibid. XII 4).

These are so to speak Halakic utterances; let us take a glance at the Agada, which allows free scope to imaginative flights. There is an extensive passage in Exodus R., Romm, 29b, describing the ten things which God will "renew" in the Messianic era. The first three are concerned with healing: a greater sun, healing waters, and healing fruits. The fourth deals with the re-building of all waste cities, including Sodom and Gomorrah. The eighth promises no more weeping or wailing, and the tenth likewise, presumably through the abolition of the main causes of wailing and weeping, namely sickness, poverty, hatred and war. So that six of the ten are quite feasible ideals in the program.

The sixth preaches peace in the animal world ("The cow and the bear shall feed together" Isa. 11.7), and the seventh a covenant between Israel and the whole animal world. The fifth is the re-building of Jerusalem, the light of the world, in sapphires. There remains only one more, the ninth, which promises the abolition of death. There are thus only four beyond the realm of the soberly plausible.

As for the sapphired Jerusalem resplendent in light, it is a naive physical rendition of the higher and more difficult thought of "nations shall walk by thy light" (Isa. 60.3).



As for the peace in the animal world it is but an extension, a kind of shadow or reflex, of the peace in the human world. If nature is red in tooth and claw, that holds as much for human nature as for animal nature. The human has been animal so far, and if the human is to get humanized, why not indulge in the further fantasy of the animals getting humanized? If ever poetic license is to be indulged it would be here; it is pathetic and touching to wish the good to invade the animal kingdom itself.

There remains the frank mythology of abolishing death. But even that, with all its proud vaulting surge, or rather because of it, has a deep foundation in sober thought. If the vanishing and perishing of the good is felt to be the heart of evil; if the complete loss of the heroic soul, of the loving soul, of heroism and of love (of "values" as they are heartlessly called in the schools) would be the supreme evil; if the true synonym of evil is death — then death must go. "He hath swallowed up death forever" בלע המות לנצח (Isa. 25.8) then becomes the proudest, the clearest, the most important demand in religion.

From a far different source and in a different mood, but nevertheless as confirmation, we have the vision of a pagan soul:

"As a god self-slain on his own strange altar  
Death lies dead."

When will the Messiah come? First and foremost when we have made ourselves ready and worthy, and this primarily through conduct and behavior, through changing the past into ripeness for the future: In Hebrew grammar the *vav* conversive changes a past into a future, and the Midrash makes use of this peculiarity of the Hebrew language by making it bear a creative Messianic meaning. The Messianic age will come when a change has been worked on the past, it is something that has to be achieved and earned, and the pivotal words are והיה ביום ההוא, "and it shall come to pass." In Genesis R., Romm, 137a, col. 2, on the words of Jacob (Gen. 28.21), ושבתי בשלום אל בית אבי והיה ה' לי לאלהים, where the two preterite verbs have a future meaning, R. Levi remarks: "God took the manner of speech used by the Patriarchs and made it a key for the redemption of their descendants. Thus God said to Jacob: 'Thou hast said, "Then shall the Lord be (*we-hayah*) my God." By thy life, all the benefits and blessings and consolations which I am to confer upon thy children (in the Messianic age) I will confer with this very expression (*we-hayah*). As it says, "And it shall come to pass (*we-hayah*) in that day that living waters shall go out from Jerusalem (Zech. 14.8)"; "And it shall come to pass (*we-hayah*) in that day that the Lord will set his hand the second time to recover the remnant of his people (Isa. 11.11)"; "And it shall

come to pass (*we-hayah*) in that day that a great horn shall be blown etc. (Isa. 27.13).” ’ ’ ’

There are of course many other passages making good conduct the specific condition of the coming of the Messiah, in fact the nearness and remoteness of his coming directly dependent on the height and depth of Jewish behavior. But the wait is long and trying, whilst at the same time the eagerness and readiness must never be relaxed. On this theme there is a pathetic and humorous Midrash in Sanhedrin 97b to the following effect: Do not rely on those who compute the exact date of the Messiah's coming, since dates innumerable have been fixed but passed without his coming, so that you may in the end believe he will never come. You must on the contrary trust the Prophet (Habakkuk 2.3) who enjoins us to wait no matter how much he tarries. It cannot be that we expect his coming and he himself does not expect to come. But supposing both Israel and the Messiah desire his coming, what is there to stop it? The answer is, the Attribute of Justice *מדת הדין*. But if that is the case, why should we keep on waiting? The answer is, *לקבל שכר* to receive reward: it is good to wait (“they also serve who only stand and wait”), since the prophet tells us “happy are all they that wait for him,” (*אשרי כל חוכי לו*) (Isa. 30.18).

The second condition of the Messiah's coming, next to conduct, is the more sombre and ominous one of fulfilling the measure of suffering. Israel must be exiled to all nations and be oppressed by all peoples. We have already heard the Gnostic-Manichean-Jacob Boehme-Schellingian version of the same view: all evil must be tried out in this most tragic-heroic of all worlds before there can be a definite turning. To the eternal glory of Israel be it said that they themselves record and accept this terrifying burden for themselves, professing that a part of the sufferings will serve to purify them of their sins, and the rest are a free gift of atonement to the world by its suffering servant.

The last mark of the Messianic age will be that all men will speak one language. Men spoke a single language at the beginning, namely Hebrew. Then came the confusion at the Tower of Babel, the division of mankind into seventy warring tongues and peoples. The final language spoken will also be one, not one indeed as single linguistic idiom, but one in clarity and sincerity and mutual understanding, namely the *שפה ברורה*, “the pure language” of the Prophet's promise (Zeph. 3.9) (Tanhuma, Buber I, 28b; ed. Singermann, p. 78). That is the final sign and seal of the unity of human kind.

## CONCLUSION

The world is young, not old, as the prematurely aged youthful Utopist poet sang because he could not wait. "My Father Time is old and gray with waiting for a better day," says Shelley and dies before his time. The world is young, history has hardly begun, and those who have helped to lay its foundations and have a mind towards the future must bethink themselves how they may perdure through a boundless future in order that they may contribute towards the further building and maturing of historic event. Individuals die, and nations may die but need not die, for nations are not (except by the veriest figure of speech) a concrete physical organism which is perforce doomed to die. On the contrary they may renew their youth perennially, and the ancient Jewish prayer *חדש ימינו כקדם*, "Renew our days as of yore," is a vivid reflection of this conviction.

However, the art of renewing a nation's days as of yore must be extremely rare and difficult, since it has been so rarely tried with success, and the rhythms and vicissitudes of a nation's life are by no means cumulative and conserving in one progressive direction. Perennial crisis may be said to be the mark of all life, and most peoples have succumbed, and where they have not succumbed they have become stagnant — weary, stale, unprofitable (witness the old China and India).

A tragic destiny has served to keep the Jewish people lean and alert. It has been bad for the nerves but good for the soul. But there are constant imminent dangers; as of today, urbanization, oversophistication, almost complete absorption into a bourgeoisie, loss of self-respect, loss of belief, and loss of the tragic-heroic sense of destiny. These are dangers which in the case of any other people would be felt as decisive, radical, insuperable. But the Jewish people has always lived in an atmosphere of extremes and not by rules but by exceptions. The incidence of decimation and attrition has been enormous throughout its history; it is the descendant of the minority of minorities; it has always felt its centre of gravity to reside in a "remnant," in an ideal Israel which, like the bird Phoenix, has risen from its own ashes. Heroic measures are needed, but heroic measures will be found by the new great Jewry of this country on which the fate of future Judaism so largely depends.

The heroic measure consists in nothing short of a renewal of life, the rejuvenation of the old life, and we can proceed to specify its elements. First, the warmth of emotion in which alone the religious

sentiment can find refuge and love; and religion is one name for that renewal of life. Mythology is another name for it: a high mythology, a high sense of mission, a cult of the Jewish People, like the cult of Jesus in the Christian religion, as incentive to further greatness because of the greatness already given; further, the emotions which feed the sense of calling and distinction, such as tragic protagonism in a heroic drama. Jews need such a climate of the mind to be wooed back to their faith, to feel pride in it and to spearhead it into the future. We need something to believe and love, a great mythos about ourselves, such as we have had since God spoke to Abraham, and such as has continued through Ezekiel's vision of the dry bones' coming to life and Yehuda Halevi's parable of the dying seed transforming the world's soil and mud into a glorious tree: a credible and viable mythos capable of being embraced and loved. I quote in praise of mythos a thinker and poet who has meditated on a similar problem for his own people.

"By myth I do not mean a fiction," says William Butler Yeats, "but one of those statements our nature is compelled to make and employ as a truth though there cannot be sufficient evidence. . . Myth is not a rudimentary form superseded by reflection. Belief is the spring of all action; we *assent* to the conclusions of reflection but *believe* what myth presents; belief is love, and the concrete alone is loved; nor is it true that myth has no purpose but to bring round some discovery of a principle or a fact. The saint may touch through myth the utmost reach of human faculty and pass not to reflection but to unity with the source of his being." (Wheels and Butterflies, N. Y. 1935, pp. 91, 121).

## שאלות עתיקות UNKNOWN LEAVES FROM

ALEXANDER SCHEIBER

Jewish Theological Seminary of Hungary, Budapest

To the everlasting memory of  
my friend Dr. M. Zulay זצ"ל

MORE than half a century ago S. Schechter found a Paitanic fragment among the Geniza pieces of the Cambridge University Library (T.-S. 6\*), which he named "The Oldest Collection of Bible Difficulties, by a Jew." Schechter himself was mistaken regarding the arrangement of the pages and did not properly comprehend the tendency of the work.<sup>1</sup> The importance of the text was instantly recognized. According to W. Bacher it is "ein neues glänzendes Blatt";<sup>2</sup> Poznański writes "dieses Fragment . . . das ininteressanteste, was die Geniza bisher zu Tage gefördert hat."<sup>3</sup> Porges also styles it "hochinteressant."<sup>4</sup>

The text was much studied by later scholars also, which is best proved by the fact that it was again published twice. A. Kahana supplied it with punctuation, although he was on the wrong track in the problem of its authorship. Its title, שאלות עתיקות, is due to him.<sup>5</sup> It was finally published by Juda Rosenthal in the *HUCA* with valuable notes.<sup>6</sup>

In the course of the last half century, no new text was found to fit it unless we consider as pertaining to it that one leaf in the Cambridge University Library (T.-S. Loan 204) which was published by Ginzberg (who regarded the author as one belonging to the circle of Benjamin al-Nehâwendi)<sup>7</sup> and which was supposed by J. Mann to be part of this work.<sup>8</sup> We had the photocopy of this leaf sent to us from

<sup>1</sup> *JQR*, XIII, 1901, pp. 345-374.

<sup>2</sup> *Ibid.*, XIII, 1901, p. 741.

<sup>3</sup> *Ibid.*, XIII, 1901, p. 746.

<sup>4</sup> *Ibid.*, XIV, 1902, p. 129. Cf. *ibid.*, XX, 1908, p. 187: "Eines der interessantesten Stücke unter den bisherigen Geniza-Funden."

<sup>5</sup> *הגרן*, V, 1906, pp. 5-42.

<sup>6</sup> *HUCA*, XXI, 1948, Hebrew section, pp. כט-צא.

<sup>7</sup> *גנוי שעכטער*, II, New York, 1929, pp. 491-496.

<sup>8</sup> *Texts and Studies*, II, Philadelphia, 1935, p. 60; J. Rosenthal, *HUCA*, XXI, 1948, pp. נג-נד.



Cambridge and have ascertained that it was written by the same hand as the שאלות עתיקות, although it does not belong to the same manuscript, for its size is different from that of the latter. Accordingly, the שאלות עתיקות is so far known in two copies. Mann's hypothesis has, consequently, been proved. However, it may make one reflect whether in this fragment there would not follow another strophe containing a letter relative to the acrostic of the author's name as is the case in the rest of the chapters.

As regards the author, all that appears from the text is that, at the age of eighteen, he left a country of the Eastern Caliphate (ארץ תובל) for Palestine and that he wrote three works on the exegesis of the Bible. "Beyond the biographical clues, which can be detected in the above compositions, further data as to the identity of our author are still lacking," writes J. Mann.<sup>9</sup>

According to the present scientific view, the author was a Rabbanite. He wished to demonstrate in his work that the Karaites and the Massorites can not understand the Bible without a knowledge of Rabbinic tradition.<sup>10</sup> Opinions vary as to the period in which the author lived. Some authorities place him before Saadya, as was held by Bacher; others, including Porges and Mann, place him after Saadya. B. Klar emphasizes that the author lived *before* the אשא משלי of Saadya was written (915-921) because the form of the אשא משלי was more complicated. At an earlier period, Paitanic construction had been simpler.<sup>11</sup>

Enough has been written about the composition.<sup>12</sup> This much is sufficient here, namely, that one chapter was devoted to each letter of the alphabet. The chapters progress either according to א"ב or according to חש"ק. In the chapter ה, all the 22 strophes end in ה; in the chapter ו in ו etc. The last strophes have nothing to do with the alphabet. The author's name is given by their acrostic. The chapters known so far provide only little certainty in this respect for, unfortunately, the ends of the chapters are wanting in most cases. This much can be gathered from the acrostic:

[X] X X ק X X X יא X X X ב X X X X נ X X X X

It can be safely inferred from this that the names of the author and of his father are quadriliteral.

<sup>9</sup> *Texts and Studies*, II, p. 61.

<sup>10</sup> J. Mann, *The Jews in Egypt*, I, Oxford, 1920, pp. 274-277; *Texts and Studies*, II, pp. 58-61, 98, 119; J. Rosenthal, *Horeb*, IX, 1946, pp. 31-32.

<sup>11</sup> מחקרים ועיונים, Tel-Aviv, 1954, pp. 291-295, 315-319.

<sup>12</sup> S. Ch. Kuk, ספר זכרון ליובל השבעים של א. ז. רבינוביץ, Tel-Aviv, 1924, pp. 78-82.

In the Kaufmann Geniza Collection which is in the possession of the Hungarian Academy of Science, I have found a fragment of the שאלות עתיקות thus far unknown. This is MS Nr. 152 which, together with many other fragments, has turned up since the publication of the catalogue of the poetical pieces in the Kaufmann Geniza by S. Widder.<sup>13</sup> It contains two leaves, which, however, are not continuous. The fragment measures 15×21 cm. It is in fine square script. I have succeeded in determining that this is part of the MS Schechter. Where our manuscript is broken (1b), the beginning of the MS Schechter is continued (ed. Rosenthal, p. ל"ו); on the other hand, the MS Schechter (ed. Rosenthal, p. מ"ב, line 28) is continued by ours (2a).

The MS Kaufmann gives the end of דה from נ; the beginning of הה to the middle of מ; the end of זה from ל and חה to the end of ח.

The extant part of the chapter דה attacks the Massorites. Consequently, we receive an answer to the problem of Poznański: "Das erste erhaltene Stück beginnt mit Ausstellungen gegen die Accente und wir wissen nicht, in welchem Zusammenhange sie vorgebracht wurden."<sup>14</sup> In our opinion, the author, like Saadya in the אשה משלי, carries on polemics against Ben Asher. Unfortunately, the Massoretic allusions in this chapter are not clear to us, for want of pertinent sources.

In the chapter הה the author collects, in alphabetical order, the *hapax legomena* which can be understood on the basis of the traditional literature. In this respect he may have also been under the influence of Saadya who likewise devoted a special tract to the Biblical *hapax legomena*. Saadya thus interprets ninety words.<sup>15</sup> There are many points of contact between the two works. In this chapter it is by mistake that י is followed by ה, and thus the alphabet of the *hapax legomena* also gets muddled. As a consequence, it may be inferred with safety that the manuscript is the work of a copyist, and not that of the author. In our edition we have corrected this mistake.

In the chapter זה are to be found Biblical verses inconsistent with each other, and in the chapter חה questions concerning difficult Bib-

<sup>13</sup> *Semitic Studies in Memory of Immanuel Löw*, ed. A. Scheiber, Budapest, 1947. Hebrew section, pp. 15–113. This describes 140 manuscripts. I edited Nos. 141–148 (see *Acta Orientalia*, III, 1953, p. 108, note 6). No. 149 is about to appear in the Ignace Goldziher Memorial Volume, Part II. Nos. 150–151 are being prepared for editing.

<sup>14</sup> *JQR*, XIII, 1901, p. 746.

<sup>15</sup> The first fragment of the original Arabic text was published by B. Klar: קובץ רב סעדיה גאון, Jerusalem, 1943, pp. 275–290 (= מחקרים ועיונים, Tel-Aviv, 1954, pp. 259–275); a further fragment was discovered by N. Allony (*Sinai*, XVIII, 1955, no. 4, pp. 245–260). Cf. S. Krauss, "Saadya's Tafsir of the Seventy Hapax Legomena explained and continued," *Saadya Studies*, Manchester, 1943, pp. 47–77.

lical passages. Within the latter, at the beginning of חה, we can read an attack on the Karaites: They pray a great deal;<sup>16</sup> they dress in black;<sup>17</sup> they change their feasts into sorrow;<sup>18</sup> they mourn the Temple of Jerusalem; their women wail in separate groups; they assume divergent attitudes regarding the laws of טומאה וטהרה.<sup>19</sup>

On the new fragment, just as on the old one, the influence of Saadya's אשא משלי is clearly perceptible,<sup>20</sup> to which we allude in the notes several times. This influence is discernible in the viewpoint, vocabulary, Biblical quotations, and Paitanic structure. As regards the last particular, to invert the statement of the late B. Klar, it can be said that this work simplifies the more complicated structure of Saadya.

Also for the problem of the authorship, our fragment furnishes some new data. We learn from it the last letter of the author's name and the first letter of his father's name. The former is ק, and the latter מ.

Accordingly, the acrostic now looks like this:

[י צ ח] ק ב נ מ X X X ב [ן] X X י א [ל ח ז] ק [א מ נ]

The hypothesis of J. Mann that its author was 'Alī b. Israel Alluf<sup>21</sup> falls to the ground. We have, therefore, reached the threshold of the solution in having determined the author's name. The task of a further and luckier discoverer will be the solution itself.

Thus are manuscripts and scholars from various countries brought together in the universal service of science. May the prediction of a lately deceased prominent Orientalist come true: "... and the magic force which united so many scholars in a single endeavour will one day banish the evil powers of darkness which strive to separate men and nations."<sup>22</sup>

Finally, it is with deep emotion that I think of this text as the last one about which I had a correspondence with M. Zulay before this great authority on medieval Hebrew poetry left us forever, to the irreparable detriment of science and of myself. It is for this reason that I dedicate my article to his memory.

<sup>16</sup> J. Mann, *Texts and Studies*, I, Cincinnati, 1931, p. 72.

<sup>17</sup> R. Mahler, הקראים, Merhaviah, 1949, p. 100.

<sup>18</sup> J. Mann, *JQR*, N. S. XII, 1921-22, pp. 464, 473; *HUCA*, XXI, 1948, Hebrew section, pp. מו. מז.

<sup>19</sup> A. Scheiber, *Jubilee Volume in Honour of Prof. B. Heller*, Budapest, 1941, Hebrew section, pp. 108-119.

<sup>20</sup> אשא משלי, ed. B.M. Lewin, Jerusalem, 1943.

<sup>21</sup> J. Mann, *Texts and Studies*, II, p. 98.

<sup>22</sup> I. Y. Kratchkovsky, *Among Arabic Manuscripts*, Leiden, 1953, p. 80.

(חרוי דה)

- [1a] במשיכה. כמו ירחצו מימי מן הברכה. והשלישי לאבשלום בן מעכה.<sup>2</sup> מה הגיע אליהם ומה ראו על ככה. הגד ומרדם באחת מרה:<sup>3</sup>

מ' יוכל אחד מאלף פקוק. טרם תמער היר מחקוק. ויבש העט דיו מצקוק. לסופר בספר ידו הרה:<sup>4</sup>

לא יכשר הכל בספר היות חרות ופרוש. כאשר על לוח לבי חרוש.<sup>5</sup> כי אם קנצי למלין<sup>6</sup> בגליוני ארוש.<sup>7</sup> לבעבור תהיה לי לעדה:<sup>8</sup>

כוכבים הבט ספור אם תוכל.<sup>9</sup> כן מספר חקי המקרא מרבה להכל.<sup>10</sup> נלאיתי ולא אוכל.<sup>11</sup> פן אפול ככלי חמדה:<sup>12</sup>

יען מה שמה סוף פסוקין חמשה עשר. וכל אלה שמות ותורת כהנים מהם נאסר. וגם אלה הדברים כמו הם נמסר. חוץ משבעה עשר יחסר. במשקל במשורה במרה:<sup>13</sup>

טעם מ. . . . [פ]סוקי בראשית ולא תהלתם. לבד מן שנים לא בלתם. וכל אלה שמות ותורת כהנים לא זולתם. חוץ מחמשה עשר בשמותם. לתור [ה] ולתעודה:<sup>14</sup>

חמדת וידבר ולא לבד משבעה. וכל משנה תורה לא מבלי עשרה ושבעה. וכל אשלמה ורומה ולא זולת חשעה. לעת פקודה:<sup>15</sup>

זיקוק ישעיה ושנים עשר וכתובים האמורים. תחלתם לא בלעדי שלשה ועשרים. וכל ירמיה ויחזקאל ודברי הימים ולא מסורים. ושמרת את החקה הזאת למועדה:<sup>16</sup>

וכל ראשי פסוקי המקרא ועתה נקראים חוץ חמשה ועשרים. וכל ראשי פסוקי כתובים גם זולת עשרים. אלה מקצת [נע]תקו מו . . . אמרים. לבד ששה עשר ברורים. בהפרד פרח אזוב מאגודה:<sup>17</sup>

דק[ו]ן[ו] וקרץ שפה<sup>18</sup> של<sup>19</sup> של<sup>20</sup> משלשת אלפים משל.<sup>21</sup> אם בקנצי מלין בחך נשל חשל. היעמוד לבך בגאון רב הממשל. מה אמולה לבתך<sup>22</sup> ורגלך לא מועדה.<sup>23</sup>

1 שמות ל, כ.

2 שמואל ב' ג, ג.

3 יחזקאל מ, י.

4 ישעיהו יא, ח.

5 ירמיהו י, א; עי' ב HUCA, כרך XX, 1948, עמ' ג, שורה 15.

6 איוב יח, ב; עי' ב HUCA, שם, עמ' לו, שורה 12.

7 מלשון ארשת (תה' כא, ג); עיין ב HUCA, שם, עמ' ג, שורה 16.

8 בראשית כא, ל.

9 שם, טו, ה.

10 יחזקאל כג, לב.

11 ירמיהו כ, ט.

12 שם, כה, לד.

13 ויקרא יט, לה; עי' ב HUCA, שם, עמ' נא, שורה 36.

14 ישעיהו ח, כ; עי' ב HUCA, שם, עמ' ג, שורה 24; אשא משלי לרבנו סעדיה גאון, הוצ' ב. מ. לויין, ירושלים, תש"ג, עמ' נב, שורה 8.

15 ישעיהו י, ג.

16 שמות יג, י.

17 שמות יב, כב.

18 יחזקאל לח, ז; עמוס ד, יב.

19 משלי טז, ל.

20 שמות, ג, ה.

21 מלכים א' ה, יב; עי' פסיקתא דר"כ הוצ' בובר לר ע"ב: "א"ר שמואל בר נחמני, חזרנו על כל המקרא, ולא מצאנו שנתבא שלמה אלא קרוב לשמונה מאות פסוקים, ואת אמרת שלשת אלפים משל, אלא מלמד שכל פסוק ופסוק יש בו שנים ושלשה טעמים".

22 יחזקאל טז, ל.

23 משלי כה, יט.

דומה בעיניו כי גאון הירדן<sup>24</sup> יינק. הלא בהשתפך פך מצנק. אז ותבחר נפשו מהנק. פחד קראו ורעדה:<sup>25</sup>

גודל המשתנים בין ספר לספר בתערובות. והנשנות . . . .<sup>26</sup> ה<sup>??</sup>תבות. ואותות<sup>26</sup> הנאספות והנאצלות והנ . . . בות. וחסירות וי[תירו]ת.<sup>27</sup> אשר הם ל[א]לפי [ר]בבות.<sup>28</sup> מה תעשו ליום פ[קודה]:<sup>29</sup>

כינה שמ[עה]<sup>30</sup> עונה עזות.<sup>31</sup> כי אלוהיו גם רזות. אשר ב[מ]קרא גנוזות. אב מחוץ לחוץ ישבי פרוזות. ולא נב[ערי] המועדה:<sup>32</sup>

[א]כי יבחן היום<sup>33</sup> || פנים בפנים.<sup>34</sup> ולא יהיו העם כמתאוננים.<sup>35</sup> ואז לפני רודף<sup>36</sup> ילכו באין אונים.<sup>37</sup> ובקשו שלום והנה קפרה:<sup>38</sup>

קשבו אלי יודעי תבונה. שובו נא אל תהי עולה<sup>39</sup> ותואנה.<sup>40</sup> ובכל זאת אנחנו כרתים אמנה.<sup>41</sup> וכותבים זאת החקה:<sup>42</sup>

## אחרת

### (חרוץ הה)

אזן מליץ תבחן<sup>1</sup> ברמיון. יודעים השיבו לי בצביון. אחים<sup>2</sup> אנקה והכח והלטאה<sup>3</sup> ואפריון.<sup>4</sup> ואז לב שמח ייטיב גחה:<sup>5</sup>

בארו אקו ורשיון<sup>6</sup> אקדח<sup>7</sup> בבאורים. בהט<sup>8</sup> בולס<sup>9</sup> בטנים<sup>10</sup> באמרים. ברומים<sup>11</sup> ובחקוך<sup>12</sup> בחרבי גבורים. והארץ והנה תוהה:<sup>13</sup>

גבעול<sup>14</sup> גלבים<sup>15</sup> עצי גופר.<sup>16</sup> רביונים<sup>17</sup> דמעך<sup>18</sup> כרוק<sup>19</sup> שפר.<sup>20</sup> הכל בעדות דרשו מעל ספר.<sup>21</sup> ולא משקול דעת וקו בוהה:<sup>22</sup>

24 ירמיה יב, ה. 25 איוב ד, יד.

26 = ואותיות, עי' דקדוקי הטעמים, עמ' 2.

27 שם, עמ' 5; אשא משלי, עמ' כט, שורה 30.

28 בראשית כד, ט. 29 ישעיהו י, ג.

30 איוב לד, טז.

31 משלי יח, כג.

32 יהושע כ, ט.

33 איוב לד, לו.

34 דברים ה, ד.

35 במדבר יא, א.

36 איכה א, ו.

37 ישעיהו מ, כט.

38 יחזקאל ז, כה.

39 איוב ו, כט.

40 נחמיה י, א.

41 שופטים יד, ד.

1 איוב יב, יא; לד, ג.

2 הושע יג, טז.

3 שיר השירים ג, ט.

4 אסתר א, ו.

5 יחזקאל כז, כד.

6 שמות ט, לא.

7 מלכים ב' ו, כה (קרי).

8 = שמים עפ"י איוב כז, יג.

9 שם, לד, יא.

3 יוקרא יא, ל.

6 דברים יד, ה.

9 עמוס ז, יד.

12 שם, טז, מ.

15 יחזקאל ה, א.

18 שמות כב, כח.

21 ישעיה לד, טז.





מכאן נראה כי המעשה הזה נעשה ביום  
ובקשה שלום והנה קפחתי קישור אל ידי תבוסת ישובי נא אל  
תהי עולה ורוממה וכל זאת אעשה בדעתם אמנה וכתובים זאת  
החקה אחרי  
קדשים השיב לי בנבון אחים אקנה והכחולטא ואפריח ואו  
לבשמה יטובנהו באט אקוה יסון אקנה בנאדים בחט  
בולט בטעם נאדים בודים והתקן בחרי צבדים והאריך  
התקנהו בעול גלים עניני דבועים דמער כדוק שפ  
הכל בעדות דיש ובעל שפ ואלא כח קול דענת קצתהו דק  
הבעם זקן טעב דחיי טובלים דחיי בן זחור וזחור חלים יחד  
הלבעה החלל דחיי וזחור חט חמל בחספם במקדשים כבדן נעמה  
והזחור חט חלים כמעט סרסר ומעט וזחור חלים חלים  
ואסלה שרר שמיית בה צמים יצתה כמהו זכר בשות עמך  
עומדות ותה אחרת לעלוקה פחת פחדו כימה פשתן נשתת  
מצדדים פחדים פחדים פחדים פחדים פחדים פחדים פחדים  
הסתחור וחרך חריגים חסודים ימים משועם נבא בשח  
בלות כימה כרת ופולת סמו בעתים ורוב יסודי רבותה  
נבואהו חק פחדים פחדים פחדים פחדים פחדים פחדים פחדים  
שעורים יצא דגים עומות עמדות עתות עתות עתות עתות  
לגמים בעמדות טובותא נבא צמית עתות קצתהו  
קלשון קט יקסס קדשים בענין יקד בשמחה כחוי וליד חריגים  
רופש מעדות חוס ופיה תלע עמדות כי זאת מעדות  
נחמדות בלגמיות סעוד השבץ שחלת יסודים ויסודים  
ויסודים במשעל חריגים חריגים חריגים חריגים חריגים חריגים  
בדך מד ששך חוס בששך קטף אנט לעת עתות חריגים  
למה קדירות ישור כשך יחוש מאמץ עתות חריגים  
מחשך לקש מושב ותחת כשך יאכח ולי אקנה מושך  
ואחר וקבץ מושך חריגים חריגים חריגים חריגים חריגים חריגים

רעב לשלש מהלפס מדברתי אשר חזרו מהנה וחסד  
 רבותי וחסד רבותי וחסד רבותי לא תרסו על בלי מלך חובות  
 בדתאן החורחו טאלחדע שכל וחקדי ויזם הביט אך  
 נקדו אלה השנים והבנים מקצות ותבן מלך בתי אבין  
 בחשבותם זאת מדע ומדעת נדחו סדרת לפנים כנר  
 משלם לנה בשדות לחוק ונדק במדעת ולא בקסם חבוי  
 אלה זאת עתה ועתה באשורה וגלי אחיה עורר היות  
 ומשך כל חתול למי שור ועת אם ואמין לקסמי ולא יבקונו  
 בטחני אכל לא שדות מואבין לשמעת אלה עלי נלנה  
 דורעניה פקח ענין ותבן שנה כנסו ופססו מנחם אז  
 תשוק גנניה קפסו מים בכרנים כי ממה ובה הפנים והשדות  
 לעתים מזמנים ולא מרוח קדים עזה יזק דבש אמרי  
 נביא תשקלנה בשדות ומסרת לאתוסף ולא תע אעם משפט  
 האשבת אלתוסף על דבריו פן ונכח בן ונכח בן דברי  
 בזה קל לאחד ארבע רבא אנשים ומכין השיר יא מאשן  
 הם מפורשים ועוד יחסרו כפי פחדו ריבין בצר פרץ ושה  
 ורח שש אלת השנים ובמקום אחר ארבע מאות ששים  
 מאותה נרעים פנ אלה השמן ודעים ושימור על פה  
 שמועב בממך באמנה יתשע מאות חמשים וששה  
 גמל ועוד יתשע מאות עשרים ושמונה האות מל מפרשי  
 טרת נאמנה יקרה מנחם פזה תבלית הכהנים אלה  
 וישע מאות ששים ובמקום אחר מלס אלה מאה תשעים  
 ואנשים מפורשים ובן הרים מאתם וזה בלא ושבועי בן  
 ונחם בארשים שומד יספי ערה אדוה הנתת לך  
 אלה ואלה אלה ואלה ואלה ואשם ויעבד ובעל דעת מלך  
 תבן לארדה וזה חסדו אלה  
 האנשים הארובת מורה דגירה פניהם דברי עתה לפי שזקע  
 פניהם יצדק יתהו שחור עמו במידות ואמון כאבד



אם קודם שחזר על הפרשה אשר יגשו יספחו יצא עד לילה  
הנחתו ואשימו מן מפתח שוקאפר יצא במשפחה  
מתעדרים ימאס אלה ויהיו טדוים בכל ג' ומשפחה  
שבו לשבות לשבות הקיספלו ואלה במשפחה ונשיהם  
לד' ושבות מבנות קולטו וקולטוהו צבון תורתם בכל  
משפחות אחרות בחור דרכ' סטמאון יהיה מלא אחר  
חכונם את הדלת והמחנה יהיה ליוני צבוןהו  
אלו הדלת בדרך דעמוס אל דראכע ואלו  
צידם בקהל אל תחד בצרי אלתורא נפשי בסדר  
מת סחה עדה היו אנך ושבע דברי חכמה ויהיה  
תחת בלמודך עו' תעלהם ביהות חכמ' מקור  
לשון ירבה למפחה ובל' ויהיה אחר ויהיה  
קרא יצא וצפית הצביאם עפ' קרב שדקל וא  
אלו ידאומא לו נא וסחה ע' וסחה וסחה  
השח' אבר לו לא תחזה אתה מות וסחה וסחה  
סאונה הצ' יוסף על ימך חמש עשר שנה וס'  
ספד שותרו ביהות מעל ספר ענה ב' יד יד  
הז' על סלה וס' יענו נראה בשוכח אסחה  
שכחו ל' בקחת את שרה מבבל בא אלך יס'  
הילה בבקד השם קרא עבדי בבחלה הילה וסחה  
ענים היתה בניה בבב' וס' וס' וס' וס'  
עסד עס' וס' וס' וס' וס' וס' וס'  
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עסד עס' וס' וס' וס' וס' וס' וס'

ובימים חוץ בל לזמן בכל טמא כה וכו'  
 פוסק: ונפש הנפש בלתי העלתה:  
 טהור פתאים אלה: עזרת חן וחסד  
 טהור: אש וטמא אלה: וכו' וכו' וכו'  
 אחרית רשעים נביתם: שער  
 אדרת לבסח ליש פוסק: האנשי טהור  
 וחלטו דרך טהור: והנשי דרך טהור  
 לבסח וחסד: תפול עליהם אלה:  
 טהור וכו' אש וטמא אלה: וכו' וכו' וכו'  
 חסדים בטמא וכו' וכו' וכו' וכו' וכו'  
 עזרים וכו' וכו' וכו' וכו' וכו' וכו'  
 פוסק: וכו' וכו' וכו' וכו' וכו' וכו'  
 מימי העלש שם חטאנו במימים: שם  
 עמנו שם חסד באחרונם: בטמא וכו' וכו'  
 בן וכו': צאו חסד פוסק בן הארץ  
 הלא נפלים חסד בכו' וכו' וכו' וכו' וכו'  
 אכלו בכו' וכו' הארץ חסד וכו' וכו' וכו'  
 לא טהור: קבע שבעות נפלים שם  
 בטמא וכו' כי כיום שם החל לספר  
 שבעות שבעות וכו' וכו' וכו' וכו' וכו'  
 וכו' וכו' וכו' וכו' וכו' וכו' וכו' וכו'  
 וכו' וכו' וכו' וכו' וכו' וכו' וכו' וכו'  
 וכו' וכו' וכו' וכו' וכו' וכו' וכו' וכו'





- דמיון הבנים יונק<sup>23</sup> נועכו<sup>24</sup> רוחי בחבלים.<sup>24a</sup> יורבו<sup>25</sup> זרין<sup>26</sup> זרין<sup>27</sup> חילים. חרר<sup>28</sup>  
חלבנה<sup>29</sup> החלד והצב<sup>30</sup> והחמט<sup>31</sup> חמל<sup>32</sup> מחספס<sup>33</sup> במקלים. כבקר גוזה:  
קכרת חרגול<sup>34</sup> יחרך<sup>35</sup> חרצנים.<sup>36</sup> חשוריהם<sup>37</sup> ימים משונים. כמה<sup>38</sup> כשיל כלפות<sup>39</sup>  
כימה<sup>40</sup> כרתי ופלתי<sup>41</sup> כומן<sup>42</sup> בעדנים. תרבו תדברו גבוהה גבוהה:<sup>43</sup>  
לחן<sup>44</sup> ומהמרות<sup>45</sup> גחלים. במנענעים<sup>46</sup> סרפר ונעצון<sup>47</sup> ונהלולים<sup>48</sup>. סלעם<sup>49</sup> ואסלרה<sup>50</sup>  
שר<sup>51</sup> שממית<sup>52</sup> בהיכלים. לבתה<sup>53</sup> כמה:<sup>53a</sup>  
זבד<sup>54</sup> עשתי עשר עטישותיו תהל אורות.<sup>55</sup> לעלוקה<sup>56</sup> פחתת<sup>57</sup> פחדיו<sup>58</sup> פימה<sup>59</sup> פענח<sup>60</sup>  
נסתרות. פצירה פים<sup>61</sup> פרוים<sup>62</sup> פרוים<sup>63</sup> פרעוש<sup>64</sup> פרחח<sup>65</sup> מצרות. ואורו עליו כהה:  
חק<sup>66</sup> פרשרנה<sup>67</sup> פתה<sup>68</sup> פתיגל<sup>69</sup> חגורים. והפותות<sup>70</sup> צליל לחם שעורים.<sup>71</sup> צלצל  
דגים<sup>72</sup> צנומות<sup>73</sup> צפחית<sup>74</sup> צנתרות<sup>75</sup> צינן<sup>76</sup> מוסגר [ים] לעברים בני בלהה:  
טוב תואר צפר<sup>77</sup> צפיעי<sup>78</sup> צקלונן<sup>79</sup>. קבה<sup>80</sup> קבלו<sup>81</sup> קלשון<sup>82</sup> קנו.<sup>83</sup> יקוסס<sup>84</sup> ירום  
בעינו.<sup>85</sup> וגרו כפשתה כהה:<sup>86</sup>  
ילירי הרמכים<sup>87</sup> רטפש מנעורות.<sup>88</sup> לרום<sup>89</sup> רפסרות<sup>90</sup> לעצי יערות. מי זאת מתרפקת<sup>91</sup>  
מן המדברות. בלי נפש רוזה:

23 דברים לג, כב.

25 שם, ו, יז.

27 משלי ל, לא (ח. חילים=ח. מתנים).

28 זכריה ט, א.

31 שם, יא, ל.

34 ויקרא יא, כב.

37 מלכים א' ז, לג.

39 תהלים עד, ו.

40 עמוס ה, ח; איוב ט, וועוד.

42 שמות לה, כב; במדבר לא, נ.

44 בראשית ל, לו.

47 ישעיה נה, יג.

50 איוב ו, י.

53 שמות ג, ב. 53a תה' סג, ב.

56 משלי ל, טו.

59 שם, טו, כו.

62 מלכים ב' כג, יא.

64 שמואל א' כד, טו; כו, כ.

66 עי' ב HUCA, שם, עמ' מ, שורה 25.

68 ישעיה ג, יז.

70 יחזקאל יג, יט.

73 בראשית מא, כג.

75 זכריה ד, יב.

78 יחזקאל ד, טו (קרי).

81 יחזקאל כו, ט.

83 שמואל ב' כא, טז (קינו).

85 איוב טו, יב.

87 אסתר ח, י.

88 איוב לג, כה.

90 דבה' ב' ב, טו.

24 איוב יז, א.

26 תהלים עב, ו.

29 שמות ל, לד.

32 תהלים עח, מז.

35 משלי יב, כו.

38 תהלים סג, ב.

41 שמואל ב' ח, יח וועוד.

43 שמואל א' ב, נ.

45 תהלים קמ, יא.

48 שם, ז, יט.

51 ישעיה מד, יג.

54 בראשית ל, כ.

57 ויקרא יג, נה.

60 בראשית מא, מה.

63 דבה' ב' ג, ו.

65 איוב ל, יב.

69 ישעיה ג, כד.

72 איוב מ, לא.

74 שמות טז, לא (בכ' צפחות).

77 איכה ד, ח.

80 במדבר כה, ח.

76 ירמיה כט, כו.

79 מלכים ב' ד, מב.

82 שמואל א' יג, כא.

84 יחזקאל יז, ט.

86 ישעיה מב, ג.

89 יחזקאל מו, יד.

91 שיר השירים ח, ה.

30 ויקרא יא, כט.

33 שמות טז, יד.

36 במדבר ו, ד.

כתרני השבץ<sup>92</sup> שחלח<sup>93</sup> וישנס<sup>94</sup> וישספ<sup>95</sup> וישסע<sup>96</sup> במשעול<sup>97</sup> דרך אין להנס. שעטנז<sup>98</sup>  
שעטת<sup>99</sup> שיט<sup>100</sup> שפי<sup>101</sup> שפות בקר<sup>102</sup> מלך ששך<sup>103</sup> וחנס<sup>104</sup>. בשצף קצף<sup>105</sup> אונס. לעת  
ערב והנה בלהה<sup>106</sup>  
למור [ש]קערורות<sup>107</sup> ישר כשך יקוש<sup>108</sup> מאסף. עץ תרוזה<sup>109</sup> הלבן מחשף<sup>110</sup>. לקש  
נחשבו תותח<sup>111</sup> משסף. אם הברול לא קהה<sup>112</sup>  
מתניך תאזור<sup>113</sup> וקבץ כל ערתך. חציך יתר<sup>114</sup> והחזק מלחמתך<sup>115</sup>. לך ושוב ומחר<sup>116</sup>

### (חרוץ זה)

רעב לשלוש מתחלפים. מדבר גר אשר חזה<sup>1</sup>  
מהנה וכנהנה רבות מן הכתובות. רבו העזובות.<sup>2</sup> לא נחרטו על לבי<sup>3</sup> מלין חרבות. בפחשנן  
החרוזה:  
נא כל יודעי שכל וחקרי דינים. הבינו איך נפקדו אלה השנים והמנינים. מקצצות והבן  
מלך בחיי אביו בחשבונים. זאת מלפני ומדעתי נגרוה<sup>4</sup>  
סדרתי לפניכם כבר משל ומליצה.<sup>5</sup> בעדות לחזק הצדק במועצה. ולא בקסם ורברי  
אליצה.<sup>6</sup> זאת עצה היעוצה.<sup>7</sup> באשורה רגלי אחזה.<sup>8</sup>  
עורך הייתי. ומישר כל התורה למישור לדעתי. אם יאמינו לקסמי ולא יברקוני בעדותי.  
אבל בלא עדות מי יאמין לשמועתי. אולי עלי נגלתה זרוע עזה.<sup>9</sup>  
פקח עיניך וחבקשנה ככסף וכמטמונים.<sup>10</sup> אז תחשוף גנוכיה<sup>11</sup> הכמוסים במכמונים.<sup>12</sup>  
כי ממנה ובה הפנים. והעדות לעתים מזומנים.<sup>13</sup> ולא מרוח קרים עזה.<sup>14</sup>  
צוף רבש אמרי נעם<sup>15</sup> תשכילנה בעדות ונעזרת. לא תוסף ולא תגרע<sup>16</sup> אם משפט לא  
עזבת. אל תוסף על דבריו פן יוכיח בך ונכזבת.<sup>17</sup> כי דבר יי בזה.<sup>18</sup>  
קהל כאחד ארבע רבוא אנשים. ומנין השני לא כראשון הם מפורשים.<sup>19</sup> ועור יחסרו  
כמי פחוה<sup>20</sup>:

92 שמואל ב' א, ט.	93 שמות ל, לד.	94 מלכים א' יח, מו.
95 שמואל א' טו, לג.	96 שם, כד, ח.	97 במדבר כב, כד.
98 ויקרא יט, דב' כב, יא.	99 ירמיה מז, ג.	100 ישעיה לג, כא (בכ"י שוט).
101 איוב לג, כא.	102 שמואל ב' יז, כט.	103 ירמיה כה, כו; נא, מא.
104 ירמיה כה, כו; נא, מא.	104 ישעיה ל, ד.	105 שם, נד, ח.
106 שם, יז, יד.	107 ויקרא יד, לו.	108 ירמיה ה, כו.
109 ישעיה מד, יד.	110 בראשית ל, לו.	111 קהלת י, י.
111 איוב מא, כא (בפסוק: קש).	112 קהלת י, י.	113 ירמיה א, יז.
114 תהלים יא, ב.	115 שמואל ב' יא, כה.	116 משלי ג, כח.

- 1 שמואל ב' כד, יג; דבה"א א' כא, יב. עי' להלן שאלה א'.
- 2 ישעיה ו, יב.
- 3 בכ"י: בלי.
- 4 תהלים לא, כג.
- 5 משלי א, ו.
- 6 מגזרת אלץ (ושפטים טז, טז).
- 7 ישעיה יד, כו.
- 8 איוב כג, יא.
- 9 ישעיה נג, א.
- 10 משלי ב, ד.
- 11 דבה"א א' כח, יא.
- 12 דניאל יא, מג.
- 13 עזרא י, יד; נחמיה י, לה.
- 14 שמות יד, כא.
- 15 משלי טז, כד.
- 16 דברים ד, ב.
- 17 משלי ל, ו.
- 18 במדבר טו, לא.
- 19 עזרא ב, סד; נחמיה ז, סו. עי' להלן שאלה ב'.
- 20 בראשית מט, ד.

רִיבוֹן בְּנֵי פֶרֶץ וְשִׁלָּה וְזָרַח שֵׁשׁ מֵאוֹת וְתִשְׁעִים. וּבִמְקוֹם אַחֵר אַרְבַּע מֵאוֹת שָׁשִׁים וּשְׁמוֹנֶה נְגָרִים.<sup>21</sup> פָּנוּ אֵלָיו וְהִשְׁמָו יוֹדְעִים. וְשִׁמּוֹ יָד עַל פֶּה<sup>22</sup> אֶחָד<sup>23</sup>:

עָשָׂה בְנֵי בְנִימָן בְּאִמּוֹנָה.<sup>24</sup> תִּשְׁעָה מֵאוֹת חֲמִשִּׁים וְשֵׁשׁ נִמְנָה. וְעוֹד תִּשְׁעָה מֵאוֹת עֶשְׂרִים וּשְׁמוֹנֶה.<sup>25</sup> הָאִזְנוֹ מִלִּי מִפְּרִשֵׁי תוֹרַת יִי נִאֲמָנָה.<sup>26</sup> יִקְרָה מִפְּנִינִים<sup>27</sup> פֹּזָה:

תְּכַלִּית הַכְּהֻנִּים אֶלֶף וּשְׁבַע מֵאוֹת וּשְׁשִׁים. וּבִמְקוֹם אַחֵר כָּלֶלֶם אֶלֶף מֵאָה תִּשְׁעִים וּשְׁנַיִם מִפְּרִשִׁים.<sup>28</sup> וְכֵן הָלוּם מֵאֲתִים<sup>29</sup> וְעוֹד מֵאָה וּשְׁבַעִים וּשְׁנַיִם<sup>30</sup> בְּאִירוּשָׁיִם.<sup>31</sup> שׁוּמְרֵי סִפִּי<sup>32</sup> עָרָה אֲרוּחָה<sup>33</sup>:

מָה תִּתְהַלֵּל בְּמִקְרָא הַגְּבוּר. <sup>34</sup> אִזְ חֶלֶף רוּחַךְ וְאִשְׁמִי וְיַעֲבֹר.<sup>35</sup> וּבִבְלִי דַעַת מְלִין תִּכְבּוֹר.<sup>36</sup> לֹא־אֶמֶר לֹא מִצָּאֲתִי חֲכָמָה<sup>37</sup>:

### אחרת

### (חרוץ חה)

תֵּאֲנִים הָלֹא־רַב־תַּפְצִירָה. וְיִגְדִּילוּ בְּפִיהֶם דְּבָרֵי עֲתִירָה.<sup>2</sup> לִפְנֵי שׁוֹמֵעַ עֲתִירָה. יִגְרְעוּ שִׁיחָה<sup>3</sup> עֲשׂוֹר עֲטוּ<sup>4</sup> בְּמִרְרוֹת יֶאֱנָחוּ.<sup>5</sup> כֹּאבֵל || אִם קוֹרֵר שָׁחוּ.<sup>6</sup> עַל הַמִּצְוָה אֲשֶׁר יַעֲשׂוּ יִפְסָחוּ.<sup>7</sup> יִתְנַבְּאוּ עַד לַעֲלוֹת הַמִּנְחָה<sup>8</sup>:

רֹאשׁ יִינִידוּ<sup>9</sup> נֹגִי מִמוֹעֲדִים.<sup>10</sup> שֶׁק וְאִפְרִי יִצְעִי<sup>11</sup> כִּמְשַׁפֵּטִם מִתְגוֹרְדִים.<sup>12</sup> יִמָּאֶסֶם אֱלֹהֵי וִיהִי נוֹרְדִים. בְּכָל גּוֹי<sup>13</sup> וּמִשְׁפָּחָה:

<sup>21</sup> דְּבַח־י א' ט, ו; נְחִמְיָה יא, ו. עי' להלן שאלה ג'.

<sup>22</sup> אִיּוֹב כא, ה.

<sup>23</sup> הַשְּׁלֵמִתִּי עֲפִי אִשָּׁא מִשְׁלֵי עַמ' לִב, שוֹרָה 14.

<sup>24</sup> עי' ב HUCA שם, עַמ' מִד, שוֹרָה 3.

<sup>25</sup> דְּבַח־י א' ט, ט; נְחִמְיָה יא, ח. עי' להלן שאלה ד'.

<sup>26</sup> תְּהַלִּים יט, ח. <sup>27</sup> מִשְׁלֵי ג, טו.

<sup>28</sup> דְּבַח־י א' ט, יג; נְחִמְיָה יא, י-יד. עי' להלן שאלה ה'.

<sup>29</sup> דְּבַח־י א' ט, כב. בְּכִי צִל': מֵאֲתִים וּשְׁנַיִם עֶשֶׂר.

<sup>30</sup> נְחִמְיָה יא, יט. עי' להלן שאלה ו'.

<sup>31</sup> עי' לַעֲלוֹת חֲרוּזֵי דָה, אוֹת ל.

<sup>32</sup> דְּבַח־י ב' לֵד, ט. <sup>33</sup> צִפְנִיָה ב, יד. <sup>34</sup> יִרְמִיָה ט, כב.

<sup>35</sup> חֲבִקוּק א, יא. <sup>36</sup> אִיּוֹב לה, טז. <sup>37</sup> שם, לב, יג.

1 יִחְזָקָאֵל כֹּד, יב.

2 עי' מֵאֲנִן בִּסְפֵרוֹ Texts and Studies כרך I, עמ' 72.

3 אִיּוֹב טו, ד.

4 עי' רִפְאֵל מֵאֲהֶלֶר בִּסְפֵרוֹ הַקְּרִיאִים. מִרְחִבָּה, 1949, עמ' 100.

5 עֲפִי יִחְזָקָאֵל ט, ד: הֵנָּאֲחִים וְהֵנָּאֲנִקִּים. עי' בְּלִיקוּשִׁי קִדְמוּנִיּוֹת שֶׁל פִּינְסֶקֶר, עמ' 104; ר. מֵאֲהֶלֶר,

בִּסְפֵרוֹ הַגָּל, עמ' 98. עי' עוֹד יִחְזָקָאֵל כא, יא: וּבְמִרְרוֹת תֵּאֲנִן לַעֲנִיָּהִם (בְּכִי בִסְרִירוֹת).

6 תְּהַלִּים לה, יד. <sup>7</sup> מַלְכִּים א' יח, כו. <sup>8</sup> שם, יח, כט.

<sup>9</sup> יִרְמִיָה יח, טז.

<sup>10</sup> צִפְנִיָה ג, יח; עי' ב HUCA שם, עַמ' מִג, שוֹרָה 9; עַמ' מו, שוֹרָה 7; אִשָּׁא מִשְׁלֵי, עַמ' נד, שוֹרָה 47.

<sup>11</sup> אִסְתֵּר ד, ג; עי' י. מֵאֲנִן בִּJQR, שוֹרָה חֲדָשָׁה, כרך XII, 1921-1922, עמ' 464, 473.

<sup>12</sup> מַלְכִּים א' יח, כח. <sup>13</sup> הוֹשֵׁעַ ט, יז.

קודרים ישבו לשכות לשכות. הם יספרו הוי אריאל<sup>14</sup> במבוכות. ונשיהם לבר יושבות מבכות.<sup>15</sup> קול נהי<sup>16</sup> וקול צוחה:

צביון תורתם בכל מצות תורת אחזה. בחרו דרכי[ה]ם<sup>17</sup> טמאה וטהרה<sup>18</sup> רגלה אחזה. וזכרונם אחר הרלת והמוזה.<sup>19</sup> והיתה לנשיא כמנחה:<sup>20</sup>

פצני אלהי והצילני מדרך מערם.<sup>21</sup> אל תמשכני<sup>22</sup> ואל תאספני[בר] מיית צידם.<sup>23</sup> בקהלם אל תחד כבודי אל תבוא נפשי בסודם.<sup>24</sup> כי [ביתם א]ל מות שחה:<sup>25</sup>

עזרה הט אונך ושמע רברי חכמים<sup>26</sup> וחידותם.<sup>27</sup> חתונם] תורתם בלמודך צור בני תעודתם.<sup>28</sup> כי תורת חכמים מקור חיים<sup>29</sup> היא לעדתם. וערבה ליני כמנחה:<sup>30</sup>

סבלי זעיר ואחור<sup>31</sup> טורף נפשו באפו.<sup>32</sup> קורא ש[במ]קרא וצפית הנביאים צפה.<sup>33</sup> קרב עד הנה ואר[ברה] אליך<sup>34</sup> וא[יה] פוך איפוא.<sup>35</sup> לכו נא ונוכחה:<sup>36</sup>

נגיד בחלותו<sup>37</sup> במכה השחונה.<sup>38</sup> אמר לו יי לא תחיה אתה מת השנה. ואחרי כן אמר לו יי באמונה. הנני אוסיף<sup>39</sup> על ימך חמש עשרה שנה. ונסו יגון ואנחה:<sup>40</sup>

מפורש וברור בעדות מעל ספר נתוה. מאלה השנים מקדמי קדם היו עליו כמלוה. וחובו יפרענו ונראה כשוכח אשר צוה[ה]. . . . לפפ . . . שכחה:

לץ<sup>41</sup> בקחתו את שרה מבעלה. בא אליו האל[הי]ם [בח]לו[נס] הלילה. בבקר השכם קרא עבדיו בבהלה. חלומי לשוחחה:<sup>42</sup>

כמה עתים היתה בביתו במבצר. הלא יום וזמן קצר. ומתי בעד כל רחם עצור עצר. וילדו כי היתה הרוחה:<sup>43</sup>

יצחק בברכו את בנו ועליו עתר. בבוא עשו בכורו חרה לבו ויתר. ענה גם ברוך יהיה להכעים עשו ולברכו יותר. אחר ברכת ארוחה:<sup>44</sup>

טוהר שבטי יעקב יחשב במקומות שטים ועשרים. ובמקומות תבט . . . . . לום בכתב מוסרים. ובמקום אחד גר ואשר חסרים.<sup>45</sup> ואותם דח[ה]:

קשקו ויבם אונן ער בהשחת.<sup>46</sup> והיה אם בא אל אשת אחיו ושחת. ואם לא י[שר] היבום לפני אל למה שאול אותו פחת.<sup>47</sup> ותהי נבלתו [כסוחה]:<sup>48</sup>

14 ישעיה יט, א. 15 יחזקאל ח, יד. 16 ירמיה ט, יח. 17 ישעיה סו, ג.

18 אשא משלי, עמ' מח-נ; שייבר בספריהיובל לפרופ' דוב הללר. בורפשט, תש"א, בחלק העברי עמ' 108-119.

19 ישעיה נז, ח.

20 ויקרא ח, יג; במקום, 'לכהן' הוא כותב, 'לנשיא', אשר אפשר והוא מוסב על ענן בן דוד.

21 תהלים קמד, יא. 22 שם, כח, ג. 23 משלי יב, כז.

24 בראשית מט, ו. 25 משלי ב, יח. 26 שם, כב, יז.

27 שם, א, ו. 28 ישעיה ח, טז. 29 משלי יג, יד.

30 מלאכי ג, ד. 31 איוב לו, ב.

32 שם, יח, ד; אשא משלי, עמ' לו, שורה 1; מלחמות ה' לסלמון בן ירוחם. הוצ' י. דורזון. נזירק,

תרצ"ד, עמ' 80, שורה 33.

33 ישעיה כא, ה. 34 שמואל ב' כ, טז.

35 שופטים ט, לח. 36 ישעיה א, יח.

37 מלכים ב' כ, א והלאה; ישעיה לח, א והלאה. עי' להלן שאלה ז'.

38 =שחין. 39 בכ"י יוסיף. 40 ישעיה לה, י.

41 לץ=אמר. 42 בראשית כ, ב והלאה. עי' להלן שאלה ח'. 43 שמות ח, יא.

44 בראשית כז, לג. עי' להלן שאלה ט'. 45 דבה"י א' כז, טז-כב. עי' להלן שאלה י'.

46 בראשית לח, א והלאה. עי' שאלה י"א. 47 עי' בן יהודה כרך י', עמ' 4887.

48 ישעיה ה, כה.



## PARALLELS TO THE QUESTIONS FROM RABBINICAL SOURCES.

*Question I*

(זה-ל)

After the numbering of the people the prophet Gad offers David three punishments from which to choose. One of them is, according to II Sam. 24.13, seven years of famine, while, according to I Chron. 21.12, the famine lasts only three years. (The LXX says three years in the former passage also.)

Cf. *Pes. Rab.*, ed. Friedmann, p. 44b: אם שבע למה שלש ואם שלש למה שבע; *Yalk. Sam.*, §165.

*Question II*

(זה-ק)

The number of the exiles who returned from Babylonia was, according to Ezra 2.64 and Neh. 7.66, forty-two thousand three hundred and sixty; however, the total of the details is not that large.

Cf. *Seder Olam Rab.*, ed. Ratner, p. 131: ארבע רבוא בכלל ופרט אינן: אלא ל' אלף וג' מאות וששים וי"ב אלף היכן הם אלא אלו שעלו משאר השבטים ויכינו את המזבח על מכוונתם וגו' ויתנו כסף לחוצבים וגומר.

See Boaz Cohen, *Saadia Anniversary Volume*, New York, 1943, p. 138, no. xlvi: ואמר רבינו סעדיה ז"ל מה שבא בפרט הוא מן יהודה ובנימין ומה שנכלל בסך הכל הוא מן שאר שבטים.

*Question III*

(זה-ר)

The generation of Judah numbers six hundred and ninety in one passage (I Chron. 9.6), and four hundred and sixty-eight in another (Neh. 11.6).

*Question IV*

(זה-ש)

The generation of Benjamin numbers nine hundred and fifty-six in one passage (I Chron. 9.9), and nine hundred and twenty-eight in another (Neh. 11.8).

*Question V*

(זה-ח)

The number of the Kohanites is one thousand seven hundred and sixty, according to I Chron. 9.13, although, added up, they only total one thousand one hundred and ninety-two (Neh. 11.10-14).

*Question VI*

(זה-ח)

The Levitical gatekeepers numbered two hundred and twelve, according to I Chron. 9.22 while, according to Neh. 11.19, they numbered only one hundred and seventy-two.

Cf. S. A. Wertheimer: קהלה שלמה, Jerusalem, 1899, p. 70, no. 15: איך היה חשבון בני לוי.

*Question VII*

(זה-ג/מ)

The prophet Isaiah imparted to Hezekiah the word of God that Hezekiah would die; then, after Hezekiah's prayer, his life was prolonged fifteen years (II Kings 20.1, 6; Isa. 38.1, 5).

Cf. Jeb. 50a: אמרו לו לרבי עקיבא הרי הוא אומר והוספתי על ימך חמש. עשרה שנה אמר להן משלו הוסיפו לו. Boaz Cohen, *Saadia Anniversary Volume*, New York, 1943, pp. 134-135, no. xxxviii; Emunot III.9; J. Rosenthal, *Hiwi al-Balkhi*, Philadelphia, 1949, p. 14, note 62.

*Question VIII*

(זה-ל/כ)

Sarah spent only one night with Abimelech. How could time be found for the women of the house of Abimelech to be barren and then for this barrenness to cease? (Gen. 20.2-18).

Cf. Ramban ad Gen. 20.17: תמה הוא כי נראה כי גם בלילה הראשון אשר לוקחה שרה לבית אבימלך ולא קרב אליה עדיין בא אליו האלהים בחלום ובבקר השכים וקרא לעבדיו גם לאברהם ומתי היה להם עצר רחם אולי היו על פרקן ואחוזם חבלי יולדה ולא יכלו להמלט ואולי אברהם איחר תפלתו ימים.

According to the Syrian churchfathers, the women were in travail one night and one day but could not give birth. See Abraham Levene, *The Early Syrian Fathers on Genesis*, London, 1951, pp. 93, 275.

*Question IX*

(י-חח)

Why did Isaac repeat his blessing of Jacob in the presence of Esau also? (Gen. 27.33).

Cf. Midr. Haggadol Genesis, II, ed. M. Margulies, Jerusalem, 1947, p. 481: **אמר ר' יצחק כיון שחרד בא לקללו אמר לו הקב"ה הוזהר שאם את מקללו: 481: אמר ר' יצחק כיון שחרד בא לקללו אמר לו הקב"ה הוזהר שאם את מקללו** **מקלל את נפשך שכן אמרת לו ארריך ארור ומברכך ברוך. כיון ששמע את הדבר הזה** **אמר גם ברוך יהיה**. See *Gen. Rab.* LXVII, 3, ed. Albeck, p. 756; *Sechel Tob*, I, ed. Buber, p. 115.

*Question X*

(ט-חח)

The tribes of Israel are enumerated twenty-two times. Why are Gad and Asher omitted in one passage? (I Chron. 27.16-22).

*Question XI*

(ח-חח)

If the levirate did not please God, why did He allow Onan to go to his sister-in-law and die because of the levirate? (Gen. 38.1 ff.).



## SALADIN AND THE JEWS

E. ASHTOR-STRAUSS, Jerusalem

IN MEDIEVAL France and England, when the knights and their families gathered in the long evenings of the winter around the fireside of a gloomy, cold room in a baronial manor, a minstrel would often appear and tell them an exciting story of the great hero of the "heathen" — Saladin. Formidable enemy of the Christians though he was, he had made a deep impression on his adversaries, because of his gentleness and courtesy, faithfulness and clemency. He was, indeed, the model of a knight. Unselfish and liberal, he was the patron of the weak. He lavishly gave away his treasures to anyone who applied. As a ruler he was just and kept his word. Both Moslem and Christian chroniclers have much to relate about his mercifulness and tenderheartedness. He won the hearts of his subjects by his grace, not by the trappings of majesty and state. Time passed, and the glory of knight-hood faded away, but Saladin's name was not forgotten. Six hundred years later, when the German poet Lessing would give a lesson to the obscurantists, he wrote a drama to preach tolerance and chose Saladin and his environment as models. Lessing puts in the mouth of the Sultan the words:

I never demanded  
That all trees should have one bark.

Was Lessing right in making Saladin the protagonist of religious tolerance? Was the son of Ayyub, like Frederick II, ahead of his contemporaries? The biographical accounts which we find in Arabic sources do not support this view. Saladin was, above all, a devout Moslem. Imbued in his youth with the tenets of rigid orthodoxy, he kept in manhood his sincere, simple faith. Throughout his life, he performed assiduously the religious duties, and cherished a deep interest in questions of religion. He hated freethinkers and heretics, and the war with the Christians became the aim of his life.

### I

The policy of Saladin's government in matters of religion was farsighted and consistent. Naturally he regarded the war with the Franks as a Holy War (*jihād*) and did all he could to arouse religious enthusi-



asm. In every town of Egypt and Syria theological seminaries were founded, where young men studied the canonical law and other branches of the theology of orthodox Islam. Beside these *madrāsas* Saladin founded monasteries for the Moslem mystics, who fulfilled an important task in the religious life of the illiterate people. When pious pilgrims set out for Mecca or returned from there, they were honored by the authorities with great pomp.

It goes without saying that the Ayyubid government adopted a new attitude toward the non-Moslem communities. The Fatimids who mistrusted the orthodox Moslem population of Egypt relied, to some extent, on the support of the Christians and the Jews. The Fatimids therefore spent money on the religious establishments of Christians and Jews, allowed them to build new churches and synagogues, and even participated in their ceremonies. All this changed when Saladin took the reins of government. The new ruler of Egypt endeavored to arouse in the Moslem masses the feeling of superiority over the non-Moslem and took measures aiming at the separation of "believers" and "unbelievers."

The discriminatory laws against the non-Moslems, which were issued by the Caliphal government in the ninth century, had fallen in abeyance for a long time. Now they were put into operation once more. According to the Egyptian historian al-Maqrīzī, the government proclaimed that henceforth Jews and Christians should not ride on horses and mules and that even physicians and government officials should not be exempted from this law. Al-Maqrīzī<sup>1</sup> mentions the promulgation of this law among the events of the year 577 of the Hijra which corresponds to 1181/82. As the passage is to be found near the end of the chapter devoted to that year, it is probable that this happened in the spring of 1182. Be that as it may, the ordinance of Saladin was an important step in the social degradation of the non-Moslem communities. The Abbasid Caliph al-Mutawakkil, in the ninth century, and the Fatimid Caliph al-Ḥākim, in the eleventh century, enacted severe laws against the Jews and the Christians, but allowed them to ride on mules.<sup>2</sup> Some prominent Moslem lawyers of the eleventh and twelfth centuries say explicitly that the *dhimmīs*

<sup>1</sup> *Sulūk*, ed. Ziyāda, I, p. 77. Curiously enough Paulus (formerly Selig) Cassel stated that Saladin relaxed the harsh laws of the Omar pact. This is one of the distortions to be found in his essay "Sultan Saladin und Lessing's Nathan," which is part of his work *Vom Nil zum Ganges*, Berlin 1880, see *op. cit.*, p. 61.

<sup>2</sup> *Ṭabarī*, III, pp. 1389, 1419; *Yakya b. Sa'īd* (ed. Cheikho), p. 202; *Ibn Kathīr*, *al-Bidāya wa 'n-nihāya*, II, p. 339.

may ride on mules.<sup>3</sup> From the days of Saladin, Jews and Christians could ride on donkeys only. Furthermore, they had to use pack-saddles, as an ancient Moslem law prescribed. In previous periods those members of the non-Moslem communities who belonged to the high-ranking classes of the physicians and government officials were allowed to ride on horses; now they were subjected to the same law as other Jews and Christians.<sup>4</sup> The enactment of such a law proved not ineffectual. When fanaticism is stirred up, it works further than the instigators wish. In a trustworthy Arabic source we read a report as to why and how a Moslem zealot hurt a Jew under the reign of Saladin. Najm ad-dīn al-Khūbishānī came to Egypt in the retinue of Shīrkūh, the uncle of Saladin, and lived in a small mosque, near the palace of the vizier. Najm was an unpleasant and ill-bred man, who insulted even the courtiers. Whenever he saw a *dhimmī* riding, he had a wish to kill him. Jews and Christians therefore endeavored not to meet Najm. One day this fanatic, seeing a Jewish physician mounted on an animal, threw a stone at him, destroying his eye.<sup>5</sup> In general, however, one cannot say that the non-Moslem communities were persecuted. This is clearly demonstrated by an occurrence in the life of Maimonides. The Arab writer al-Qifṭī relates, in his *History of Scientists*, that Maimonides was accused by a Moslem scholar of having embraced the faith of Mohammed and of having renounced it later. According to al-Qifṭī, the vizier al-Qādī al-Fāḍil, who was a close friend of Maimonides, saved him.<sup>6</sup> Apostasy was, in the eyes of the Moslems, the most shocking of crimes and, in a later period, a sentence of death would soon have ensued.<sup>7</sup>

Saladin's aim was to establish the rule of the canonical law and tradition, and he abode by it rigidly. The communal autonomy of the Christian and Jewish communities was officially recognized by the Caliphal state, and Saladin confirmed this recognition. An Arab author

<sup>3</sup> *Al-Māwardī, al-Aḥkām as-sultānīya* (ed. Enger), p. 129; *aṭ-Turṭūshī, Sirāj al-mulūk* (Alexandria 1289), p. 232.

<sup>4</sup> That the passage in the *Sulūk* should be understood in this way is more probable than to infer from it that Saladin forbade the non-Moslems to be physicians or government officials, see Wiet in *Encyclopædia of Islam*, II, p. 996 (s. v. *Ḳiṭṭ*).

<sup>5</sup> Ibn Abī Uṣaibi'a, '*Uyūn al-anbā*', II, p. 116.

<sup>6</sup> *Ta'rīkh al-ḥukamā* (ed. Lippert), p. 319.

<sup>7</sup> For our purpose it matters not much what was true of this accusation. That Maimonides was accused of apostasy is not only related by al-Qifṭī, Ibn Abī Uṣaibi'a, and other Arab writers, see D. S. Margoliouth in *JQR*, XIII, pp. 539-41, but also alluded to by himself. In a letter to Jepheth b. Eliyah he speaks of עמידת מוסרים עלי להרגני, see *Qōbeṣ*, II, f. 37b.

of the fourteenth century tells us how this came about.<sup>8</sup> The Jews approached Saladin with the petition that, as in former times, lawsuits between Jews should be brought before Jewish judges and that the matters relating to the inheritance of a Jew should be dealt with by the heads of the Jewish community according to Jewish law. They maintained that, when the heir was under age or absent, the inherited estate was kept, in former times, by Jewish judges. Saladin asked Moslem jurisconsults, of the Shāfi'ī and Mālikī school, to give their decisions. One of them was Abū Tāhir as-Salafī, a well-known scholar who came from Persia to Egypt and taught Ḥadīth (sayings of Mohammed) at Alexandria.<sup>9</sup> Abū Tāhir replied that lawsuits of Jews were to be pleaded before a Jewish court, recognized by the members of the Jewish community. A Moslem judge can pronounce a judgment upon a lawsuit between Jews, if both sides apply to him. But, even in this case, he may refuse to pass judgment. Inheritances of Jews should be divided by Jewish judges. The Moslem judges have no right to pronounce upon the bequests of Jews unless it was proved clearly that the Jewish authorities were guilty of fraud. The other lawyers agreed to this decision.<sup>10</sup> There can be no doubt that Saladin accepted the decision of the jurisconsults. At the same time, we must surmise that the Jews had reason to fear that their autonomy would be abolished, otherwise they would not have made this appeal. Anyhow, the Egyptian Jews had their autonomy saved. They also kept their posts in government offices. The employment of Jews and Christians in the offices of the government was, indeed, a problem which caused much agitation for centuries. The Moslem rulers could not but have recourse to the knowledge and loyalty of Jewish and Christian scribes and tax-gatherers. The fanatics, by contrast, were of the opinion that this meant the rule of "unbelievers" over Moslems. In a later period, when the *madrasas* had trained a large number of intellectuals who looked for well-paid posts, this question became an economic one. In the days of Saladin, however, Moslem intelligentsia in Egypt and Syria were not yet numerous. In an Arabic pamphlet against the employment of non-Moslem officials, which was written a hundred years after the reign of Saladin, we read that, in the days of the last Fatimid Caliph al-ʿĀḍid, the Christian officials were dismissed. But, when Saladin succeeded to the throne of Egypt, the author says, they obtained their posts once more. For they persuaded the Kurdish generals that the

<sup>8</sup> Tāj ad-dīn ʿAbdalwahhāb as-Subkī, *Ṭabaqāt ash-shāfiʿiyya*, IV, p. 47.

<sup>9</sup> Cf. Ibn Khallikān, *Wafayāt al-aʿyān* (Būlāq, 1299), I, pp. 37-38.

<sup>10</sup> Cf. Schreiner in *REJ*, 29, pp. 208 ff.

Moslem officials were not capable of carrying on the administration.<sup>11</sup> Indeed we hear, for instance, that Abu 'l-Ma'ālī Uzziel, the brother of Maimonides' wife and the husband of his sister, was secretary to a wife of Saladin.<sup>12</sup> In general, the civic rights of the Jews (and the Christians) were not curtailed. As other subjects of the Sultan they had the right to present petitions and to prefer complaints.<sup>13</sup> Jewish merchants had to pay the same customs duty as Moslems.<sup>14</sup>

The reign of Saladin was a period of transition. The new ruler of Egypt turned away from the tolerance which the Fatimids showed in matters of religion. But the Ayyubids were highly educated and far from being hypocrites as were their successors, the Mamluks; and the people were not yet imbued with fanaticism. Therefore social relations between Moslems and Jews continued. In the pamphlet mentioned above, we find stories which point to this fact. It relates that al-Qāḍī al-Fāḍil paid a visit to "the physician Mūsā" (i. e. Maimonides) when he fell ill. Further it tells us how a Jew of Bilbais invited the vizier Ṣafī 'd-dīn Ibn Shakar and then charged his wife to pour urine into the dishes when the dinner was served.<sup>15</sup> What we can infer from these stories is that, in the days of Saladin, Oriental Jews were not an isolated group, like the ghetto-dwellers in Europe.

The German Vitztum Burkhard, the envoy of Frederick Barbarossa, who came to Egypt in 1175, judged the state of affairs quite well, when he said that, in this country, everybody could follow his creed as he liked.<sup>16</sup>

## II

The fact that, until Saladin, non-Moslem physicians were exempted from the restrictive laws testifies to the high position that these physicians held in the lands of the Caliphate for many generations. Indeed a great percentage, if not the majority, of the physicians were

<sup>11</sup> R. Gottheil, "An Answer to the *dhimmis*," *JAOS*, 41, p. 402. If the author speaks of Christians we may naturally add the Jews. For the Christians were far more numerous, and many a time the Arab writers say "Christian" instead of "protected people" i. e., Jews and Christians.

<sup>12</sup> See A. H. Freimann, "The Genealogy of Maimonides' Family" (in Hebrew), in *Alumma* (edited in Jerusalem, 1936), pp. 14-5.

<sup>13</sup> Cf. J. Münz, *Moses ben Maimon*, p. 263.

<sup>14</sup> S. Goitein in *Speculum*, 29, p. 196, who surmises that an edict of Saladin to this effect repealed a former ordinance which had raised the duties to be paid by Jews and Christians to the double of those incumbent on the Moslems.

<sup>15</sup> *Op. cit.*, p. 397.

<sup>16</sup> Apud Arnold of Lubeck SS, XXI, pp. 235 f.

Jewish or Christian. Naturally, Moslem fanatics looked upon their social standing with ill-will and disgust. But, for a long time, they could not change the state of affairs. The heads of the Moslem community, the Caliphs themselves, had Christian and Jewish doctors. The Abbasid Caliph an-Nāṣir li-dīn Allāh (1180-1225), who undertook, in various ways, to strengthen the ties of the Moslem peoples, had Christian court-physicians.<sup>17</sup> The kings and Sultans ruling in different parts of the former Caliphate did the same. When medical help was needed, nobody bothered about the creed of the doctor. In this respect Saladin was not an exception. Besides having Moslem physicians, he also resorted to the help of doctors who were Jewish and Christian. Ibn Abī Uṣaibi'a who, in the middle of the thirteenth century, composed an excellent history of Arab physicians, mentions in the biographies of fifteen doctors that they treated Saladin. We should not be astonished that Saladin engaged so many physicians, for at that time kings were accustomed to consult several physicians. Furthermore, of the twenty-two years of his reign, Saladin lived eleven years in Egypt and spent eleven years waging war in Syria. Many a physician refused to follow his king on his campaigns, and thus Saladin's Egyptian doctors remained in Cairo, when he lived in Damascus or fought the Crusaders in Palestine.

The Jew al-Muwaffaq Ibn Shū'a was, according to Ibn Abī Uṣaibi'a, an easygoing man who liked musing and who composed satiric verses; but first of all he was a very good physician. He was a general practitioner, oculist, and surgeon at the same time. As long as Saladin lived in Egypt, this doctor attended him. Al-Muwaffaq Ibn Shū'a died in 579 h (1183/4).<sup>18</sup> Another Jewish doctor who treated Saladin was Abu 'l-Ma'ālī Tammām b. Hibatallāh b. Tammām. We read in our source that this man's medical knowledge was highly esteemed and that, after Saladin, he served Saladin's brother, al-Malik al-Ādil as court-physician.<sup>19</sup> The most renowned of Saladin's Jewish doctors was doubtless Hibatallāh Ibn Jumai', whose full name was Abu 'l-'Ashā'ir Hibatallāh b. Zain b. Ḥasan b. Efrā'im b. Ya'qūb b. Ismā'il b. Jumai' and who bore the honorific titles *al-Muwaffaq* and *Shams ar-riyāsa*. This physician was a native of Fostat who had studied medicine under the guidance of the famous physician Abū Naṣr Ibn al-'Ainzarbī. Later he became himself a noted teacher, and

<sup>17</sup> S. Wüstenfeld, *Gesch. der arab. Aerzte*, nos. 188, 208.

<sup>18</sup> Ibn Abī Uṣaibi'a, II, pp. 116-7; Leclerc, *Histoire de la médecine arabe*, II, p. 56.

<sup>19</sup> Ibn Abī Uṣaibi'a, II, p. 117; Leclerc, II, p. 59; Steinschneider, *Ar. Lit.*, no.



many well-known doctors of the next generation were proud to call themselves his pupils. Like many other physicians, Hibatallāh was fond of philology. We are told that, when lecturing, he had a copy of the *aṣ-Ṣiḥāḥ*, the Arabic dictionary of al-Jauharī, with him, and there he looked up every word which he did not know well. He was also a prolific writer, and composed several medical works. Saladin had great confidence in this man's medical knowledge, all the more since he compounded for the Sultan a universally efficacious medicament. The date of Ibn Jumai's death is not sure.<sup>20</sup> Among the physicians who attended Saladin in Egypt, we find also the Karaite as-Sadīd Abu 'l-Bayyān Ibn al-Mudawwar. This learned doctor who served the last Fatimid Caliphs as court-physician, was later consulted also by Saladin. By then Abu 'l-Bayyān was already an old man, and Saladin allowed him a monthly pension of 24 dinars. Abu 'l-Bayyān continued, however, to teach medicine at his home until his death.<sup>21</sup>

In the second half of his reign, the years of his heroic struggle with the Crusaders in Palestine, Saladin had Syrian physicians. The most distinguished of these doctors was al-Muwaffaq Ibn Miṭrān, who accompanied him on many campaigns. This famous physician was a Christian who embraced the Moslem faith. Besides Ibn Miṭrān and other Moslem and Christian doctors mentioned by Ibn Abī Uṣaibi'a,<sup>22</sup> a Samaritan physician attended Saladin. This one was Ibrāhīm called Shams al-ḥukamā, "the sun of the doctors."<sup>23</sup> We hear also of a Jewish physician of Aleppo who came into contact with Saladin while he was in Syria. His name was 'Afīf b. Sukra. Ibn Abī Uṣaibi'a says that in 584 h (1188/9) 'Afīf b. Sukra composed a treatise on colic and dedicated it to Saladin. Another Arab writer, the Aleppine historian Kamāl ad-dīn Ibn al-'Adīm, relates that once Saladin suffered from colic and consulted this Jewish doctor, but refused to follow his advice. For

<sup>20</sup> Ibn Abī Uṣaibi'a, II, pp. 112 ff.; Steinschneider, *op. cit.*, no. 145; on the name see Brockelmann, *Gesch. d. arab. Lit.*, Suppl. I, p. 892; see also Meyerhof, "Medieval Jewish Physicians in the Near East," *Isis*, 28 (1938), pp. 444-5 and "Sultan Saladin's Physician on the Transmission of Greek Medicine to the Arabs," *Bulletin of the History of Medicine*, 18 (1945), pp. 169-178.

<sup>21</sup> Ibn Abī Uṣaibi'a, II, p. 115. The Arab author says that Abu 'l-Bayyān died in 580 h (1184/5) at the age of 83 years, after having received his retiring pension for twenty years. Either the date of his death or the period of his retirement must be incorrect, for otherwise Abu 'l-Bayyān might not have been the medical man of Saladin, who became ruler (vizier) of Egypt in 1169. (Or should we assume that this doctor treated Saladin when he participated in Shīrkūh's expeditions which preceded the final occupation of Egypt in 1169?)

<sup>22</sup> II, pp. 175 ff., 162-3, 163, 182, 183.

<sup>23</sup> *Op. cit.*, p. 233.

'Afif had recommended that he drink wine, which is forbidden by Moslem law.<sup>24</sup>

The physicians mentioned so far attended Saladin personally. But, in addition, there were court-physicians who had the care of the king's wives, children and domestics. Naturally these doctors got monthly salaries, and their posts were eagerly coveted. One of them was the great eagle of Jewish history, Maimonides.<sup>25</sup> Maimonides was a protégé of Saladin's minister al-Qāḍī al-Fāḍil. In the last years of his life Maimonides treated the members of the royal house.<sup>26</sup> Other Jewish doctors were appointed to posts in the public hospitals which had been founded at that period in the large towns.<sup>27</sup>

<sup>24</sup> Ibn Abī Uṣaibi'a, II, p. 164, who gives as his full name, 'Afif b. 'Abdalqāhir b. Sukra; Steinschneider, *Ar. Lit.*, no. 152 (who has 'Afif b. Sukra b. 'Abdalqāhir).

<sup>25</sup> Ibn Abī Uṣaibi'a, II, p. 117, says that Maimonides served Saladin himself as court-physician and this statement has been taken over by Wüstenfeld, *Gesch. der arab. Aerzte*, no. 198, and modern authors, see e. g., the essay of Rabbi Fishmann (now Maimon) in the Memorial Volume *Rabbenu Moshe ben Maimon*, edited by him in Jerusalem, 1935, p. 97. That this can not be true was conclusively deduced from Maimonides' correspondence with his friend and pupil Joseph b. Y'hūdāh by Grätz, 3rd German ed., VI, p. 399. In a letter supposedly written in Marḥeshwān 1503 Sel. (October, 1191) Maimonides tells his friend that he had won a great name as physician and was consulted by the chief dignitaries of the state. We must infer from this report that before he had not had much success as practitioner and that the turning point in his career as physician was between the departure of Joseph b. Y'hūdāh and the writing of this letter. As al-Ḥarizī, who was in 1217 in Aleppo, says that Joseph b. Y'hūdāh had, by then, already been thirty years in that town, he must have left Egypt in about 1187. The date of the letter itself is certainly erroneous, since Maimonides informs the addressee of his intention to write a treatise on the resurrection of the dead and this treatise was composed in 1502 Sel. The date of the letter should apparently be changed into 1502 Sel., that means it was written in October 1190, see Munk, *Notice sur Joseph ben-Iehouda* (Paris, 1842), pp. 21-22 and Baneth, *Iggarōth ha-Rambam*, I (Jerusalem, 1946), pp. 2, 33. At any rate it is clear that the gates of the royal palace were opened to Maimonides some years after Saladin left Egypt. (The authenticity of this letter was, once more, denied by J. L. Teicher in his paper "Maimonides' Letter to Joseph b. Jehudah — a Literary Forgery," *The Journal of Jewish Studies*, I (1948), pp. 35-54. But even Teicher admits, *ibid.*, p. 54, that the sections of the letter which bear on Maimonides' private affairs must be genuine. Indeed the passages to be quoted here are taken from sections 17, 22 and 23. Sections 17 and 23 are acknowledged by Teicher as genuine, but why does he class section 22 among those which he believes to be forged? In this section Maimonides reports on his career as physician.) We may adduce another argument against Ibn Abī Uṣaibi'a's statement: The list of Maimonides' medical writings comprises a treatise written for his son and successor al-Malik al-Afḍal (*Fī tadbīr aṣ-ṣiḥḥa*) and another for his nephew Taqī 'd-dīn 'Umar (*Fī 'l-jimā'*). If he had served Saladin, he would certainly have dedicated to him some of his works.

<sup>26</sup> See his letter to Samuel b. Tibbōn written in 1199, *Qōbeṣ*, II, f. 28b.

<sup>27</sup> Ibn Abī Uṣaibi'a, II, p. 118.

On these Jewish physicians great honors were bestowed by all classes of Moslem society. In their biographies, which we find in Ibn Abī Uṣaibi'a's work, we read, time and again, that they were "in a high position" or that they "enjoyed great influence." These and similar remarks cannot be mere phrases; they depict the real state of affairs. In order to estimate the attitude adopted by the royal house in this respect, one should not forget that, at the same time, there went on an underground agitation against the consultation of Jewish and Christian doctors by Moslems. We even hear that an outstanding physician refused to admit Jewish and Christian students to his medical lectures.<sup>28</sup>

### III

As already mentioned, Saladin agreed that the communal autonomy of the Jews should be maintained as it had been established by the Fatimids. However, the change in the political situation, which was brought about by Saladin, affected that autonomy as it did most spheres of social life. The overthrow of the shī'ite Caliphate and the accession of the orthodox Ayyubid to the throne of Egypt caused upheaval in the Jewish community and engendered a new orientation. This vacillation, for it was nothing more, began about fifteen years before the downfall of the Fatimid Caliphs, when their hold on the government of Egypt had grown weak. It came to its climax in the first decade of Saladin's reign.

For two centuries the Nāgīd had been the head of Egyptian Jewry. He represented the Jewish communities before the government and supervised the Jewish law courts and the activities of the various officials of the communities as butchers, teachers and the like. In the middle of the twelfth century, the post was held by Samuel b. Ḥananyā, who was also court-physician. This Nāgīd was held in high esteem. But an ambitious man, whose name was Zūṭā, succeeded in having Samuel deposed and in getting his post. In the *Scroll of Zūṭā* where his misdeeds are related,<sup>29</sup> we read that Zūṭā paid for the post a certain sum of money, or promised to extort it from the Jews, every year. However, Zūṭā held the post of the Nāgīd no more than sixty-six days, and then Samuel b. Ḥananyā was restored. Samuel died apparently in 1159.<sup>30</sup> After his death the post of the Nāgīd was vacant or neglected for a long time. Most of the deeds of the Jewish law

<sup>28</sup> *Ibid.*, p. 193.

<sup>29</sup> It was published by Neubauer in the *JQR*, VIII, pp. 541 ff.

<sup>30</sup> See Mann, *Jews in Egypt and Palestine under the Fatimid Caliphs*, I, p. 233.

courts, which were issued in the last four decades of the twelfth century, mention as the highest authority of Egyptian Jewry the heads of the Yeshiva of Fostat who called themselves G'ōnīm. The author of the *Scroll of Zūtā* goes on to relate that, after some years, the king of Egypt died, and his successor appointed Zūtā head of the Egyptian Jews, after he had pledged himself to pay 200 dinars a year. This time Zūtā held the post for four years, and did the Jews much harm. He extorted such large sums that many became poor. We hear that finally Maimonides had him deposed, but the author of the *Scroll* fails to give us a hint as to how this was done. However, Zūtā got the post a third time. This section of the *Scroll* is most interesting. We are told that Zūtā denounced his co-religionists to the king of Egypt, maintaining that they hid the government's enemies in their houses. Zūtā and his son alleged that emissaries from distant countries were supported by the Jews. Thereupon the government appointed Zūtā once more, in order that he should keep an eye on the subversive activities of the Jews. He held the post for two years until a Jewish deputation appeared before the government and secured his deposition. The author of the *Scroll* does not mention the name of the Egyptian king under whose rule this happened, nor does he give dates. Scholars who have investigated this document agree that the king spoken of must be Saladin. This is certainly true. For the *Scroll* relates that, between the death of Samuel b. Hananyā and the beginning of the reign of this king, a long time had elapsed, while the intervention of Maimonides could not have occurred before the accession of Saladin to the throne of Egypt.

The report on the rebels whom the Jews supported has thus far received no comment. It seems that this chapter in the *Scroll* may enable us to come nearer to establishing the time of those events. When Saladin took the reins of government, there was still in Egypt a strong party which sided with the Fatimids, who had ruled the country for two hundred years. The supporters of the Fatimids, for the most part officers of the army, officials of the royal palace and of the government, fanatics of the Shī'a creed, staged a series of conspiracies and mutinies. The most formidable was the conspiracy of the major-domo Mu'taman ad-daula in 1169. After Mu'taman's execution, the Sudani troops raised an insurrection which seems to have been extremely dangerous for the new Ayyubid government. However, Saladin had the upper hand, and the Sudanis were expelled from the capital to Upper Egypt. There they revolted time and again. We hear of insurrections in the winter of 1171/2, the winter of 1172/3 and in 1174. In the same year there was uncovered a conspiracy of Shī'ites.

In 1176 there was a new revolt at Koptos.<sup>31</sup> But meanwhile Saladin had got a firm hold on the government of Egypt and had won over many partisans of the deposed Caliphs. So we must assume that the third appointment of Zūṭā as chief of the Egyptian Jewry can not have taken place much later than 1175.

The accusations of Zūṭā against Jews who participated in the plots against the Ayyubid government were not at all unfounded. In their reports on the revolt of 1169, Arab historians say that the conspiracy was revealed when one of Saladin's men caught an envoy of the plotters with letters to the Franks. These letters which invited the Christian princes of Syria and Palestine to attack Saladin were written by a Jewish government official. In order to save his life the Jew embraced the Mohammedan faith.<sup>32</sup> There is no reason to suspect the veracity of this story, and we may understand how the government came to accept Zūṭā's contentions as true.

It has already been said that, after the appointment of Zūṭā as chief of the Egyptian Jewry, the post of the Nāgīd fell in abeyance and the heads of the local Yeshiva were recognized as the highest authority of the Jews of Egypt. But we also find documents which mention, as chief of Egyptian Jewry, the Babylonian Exilarch.<sup>33</sup> This would have been inconceivable some decades before, since the Nagidate was created by the Fatimid Caliphs in order to sever the relations between the Jews of Egypt and the Exilarch, who was a dignitary of state of the orthodox Abbasid Caliphs. This new orientation of the Egyptian Jews began after the death of the Nāgīd Samuel b. Ḥananyā. We can easily understand the reasons for the new attitude. The Yeshiva of Fostat was an offshoot of the ancient Palestinian academy, exactly as the Yeshiva which existed in that time in Damascus. Both the heads of the Fostat and the Damascus Yeshivas went by the title of Rōsh Y'shībhat G'ōn Ya'aqōbh or Rōsh Y'shībhat Ereṣ ha-ṣ'bhī; that is, they pretended to be the successors of the Palestinian G'ōnīm. Since the Gaon of Damascus was patronized by the Gaon of Baghdad, R. Samuel b. Eli, it was quite natural that the Yeshiva of Fostat should look for the support of the Babylonian Exilarch, the antagonist of the Baghdad Gaon. While the Gaon of Damascus claimed to have jurisdiction over the Jews of Egypt, the head of the Fostat Yeshiva, N'tan'el b. Moses ha-Lēvī, was designated by the Babylonian Exilarch as spiritual chief of the Jews in Egypt, with the right to establish

<sup>31</sup> See St. Lane-Poole, *Saladin* (London, 1926), pp. 101 f., 126.

<sup>32</sup> Ibn al-Athīr, *al-Kāmil fī 'l-ta'rīkh* (ed. Tornberg), XI, p. 228; Maqrīzī, *Khīṭaṭ* (ed. Būlāq), II, p. 2.

<sup>33</sup> See Mann, *Texts and Studies*, I, p. 395.



law-courts. In a letter despatched to N'tan'el in 1161, the Exilarch appoints him to the presidency of the supreme Jewish court of Egypt. The Exilarch says that the Palestinian academy and its Gaon have no rights over Egypt. He further puts forth his claim to being the chief of all the Jewries outside of Palestine. He relates also that he is in the Abbasid Caliph's good graces and urges that the Jews all the world over should pray for the Caliph. It goes without saying that the Exilarch did not forget to remind the Egyptian Jews of their duty to support him financially.<sup>34</sup> We may be sure that N'tan'el gave publicity to this letter. The establishment of close relations between the Jews of Egypt and the Babylonian Exilarch was a breach in the tradition of this Jewry which cannot be explained by the rivalry between the Yeshiva of Fostat and that of Damascus only. In a previous period, when the Fatimid government was still strong, the orientation of the Egyptian Jews towards the Exilarch of Baghdad would have been regarded as an act of high treason. But this was possible during the reign of the last Caliphs of this dynasty, who were children and puppets in the hands of orthodox ministers. After the accession of Saladin to the throne, the new orientation became even stronger. Saladin swore allegiance to the Abbasid Caliph who resided in Baghdad, and it was quite natural that the Jews of Egypt should follow in this path and recognize once more the Babylonian Exilarch as their supreme chief.<sup>35</sup> Later on, an offspring of the family of the Exilarchs settled in the Egyptian capital and played the role of a chief of the local Jewry. He countersigned some of Maimonides' responsa.<sup>36</sup> At the same time, Maimonides carried on a correspondence with the Exilarch of Baghdad. In the letter which he wrote in 1190 to Joseph b. Y'hūdāh Maimonides tells that he had received an epistle from the Exilarch and that he had had it read in a great assembly of Jewish notables.<sup>37</sup> Again, one could argue that the renowned sage of Fostat sympathized with the Exilarch because he was the adversary of the Gaon Samuel b. Eli, known as the opponent of Maimonides' tenets. But this supposition would be wrong. When Maimonides became aware of the competition of the Exilarch with the Baghdad Gaon for the leadership of the Oriental Jewries, he repented of having written to the Exilarch.<sup>38</sup> The fact that Maimonides held the post of the Exilarch in high esteem

<sup>34</sup> This letter was reconstructed and published by S. Assaf in *Tarbiz*, I, pt. 3, pp. 66 ff., cf. Mann, *Texts and Studies*, I, pp. 231 ff.

<sup>35</sup> This connection was already set forth by Mann, *op. cit.*, p. 236.

<sup>36</sup> Ed. Freimann, nos. 198. 212.

<sup>37</sup> *Iggerōth ha-Rambam*, ed. Baneth, I, p. 64.

<sup>38</sup> *Ibid.*

is shown by his statements in the commentary on B'khōrōth 4,4 and in *Mishneh Torah, Hilkhōth Sanhedrin* chap. 4. According to his opinion, a judge appointed by the Jewish authorities in Palestine could fulfil his task in Palestine alone, whereas the appointment by the Exilarch was valid both in Palestine and in other countries. "For the Exilarch of Babylon is like a king of all Israel." Probably we are far from wrong when we assume that Maimonides wrote these lines under the impact of the actual situation. Indeed, in the last quarter of the twelfth century, both Moslems and Jews regarded Baghdad once more as the capital of the Oriental world and the residence of their chiefs.

It is true that all these changes lasted for a short while and that later the Jews of Egypt built their former organization anew. Those changes were a result of the political circumstances which were then stirring. The rapidly altering situation was so exciting that it agitated the Jewish communities in other respects too.

#### IV

In that period, Jews of many lands entertained hopes that the Messianic time was approaching. It was generally believed that the Messiah would appear at the end of the fifth millennium according to the Jewish era of creation i. e. at 1240 C. E. Before his coming there would be a time of preparation — the Messianic troubles, woeful to Israel and to other peoples. It was believed that these events would be indicated by natural phenomena. The astronomer R. Abraham bar Ḥiyyā, who wrote his *M'gillat ha-m'galleh* about 1130, said that in 1186 there would be a conjunction of stars which would cause calamities in the lands of the Philistines, Edom, Ishmael, and Shin'ar. These troubles would last ten years, and in 1206 there would be another conjunction which would show clear signs of the redemption.<sup>39</sup> Moslem astronomers, too, calculated that in 1186 there would be a conjunction followed by dreadful events. It was feared that a terrible wind would annihilate all that was on earth. Therefore, the astronomers advised the people to dig holes to hide in. Some foretold that this would happen in the month of September; others said October.<sup>40</sup>

The Jewish communities in the Moslem East had their own forebodings. In this connection attention should be paid to a document

<sup>39</sup> Ed. M'qīṣē Nirdāmīm, p. 146.

<sup>40</sup> Ibn al-Athīr, II, p. 348; Sibṭ Ibn al-Jauzī (ed. Jewett) pp. 246-7; Abū Shāma, K. ar-Rauḍatayn, II, p. 72.

which was published many years ago by the late Rabbi S. Assaf.<sup>41</sup> This curious document of the Genizah was briefly dealt with both by its publisher<sup>42</sup> and by J. Mann.<sup>43</sup> But these eminent scholars failed to analyze its real meaning. Before an interpretation is given, let us quote the text itself:

- Copy of a letter from Baghdad, from the Head of  
the Academy, Samuel, and conveyed by Samuel, and on it is the signature  
of Ezra,  
the Head of the Academy, and it bears his name.<sup>44</sup>  
A testimony in Joseph,<sup>45</sup> witnesses witnesses our witnesses, the congregation  
in the council of the upright and the congregation,<sup>46</sup>  
5 This we have searched, and so it is,<sup>47</sup> on the assurance of the community and  
the sprinkler, son of a sprinkler,<sup>48</sup> to come together  
Thou shalt surely see the face of them that appear in the innermost place,  
seeing but unseen,<sup>49</sup> to tell  
The word of its bearer, of Rabbi Samuel the son of Solomon, the priest, may  
God give him grace to encourage.  
Strengthen ye the weak hands to mend the princes of the Holy, the faithful  
of Israel and of Judah.  
Ezra, the poor, the small, the Head of the Academy, "Splendor of Jacob,"  
the son of Rabbi Abraham, Head of the Academy "Splendor of Jacob,"  
the memory of the righteous shall be for a blessing.  
10 May the help of our stronghold strengthen us. Tammuz 1486, Aleppo, Syria.

Assaf was of the opinion that the letter of R. Samuel b. Eli was contained in ll. 4-7, while Mann maintained that our document comprises the recommendation of the Gaon R. Ezra, testifying to the trustworthiness of the envoy, Samuel b. Eli's letter itself being lost. This is indeed more probable, since people were accustomed to sign a letter with their acrostic. But, even if this opinion is true, we must assume that the letter of the Baghdad Gaon was no more than a similar recommendation, for the real message was to be delivered by word of mouth, see ll. 6-7: it consisted of the words of its bearer. Furthermore, R. Samuel b. Solomon was sent to transmit news "in the intimate fellowship of the upright and the congregation." What was the great secret forwarded from the Gaon of Baghdad to the head of the Syrian academy, then living at Aleppo, by a special messenger and then trans-

<sup>41</sup> As appendix to his *Letters of Samuel b. Eli*, in *Tarbiz*, I, pt. 3, p. 77.

<sup>42</sup> *Ibid.*, pp. 66-67.

<sup>43</sup> *Texts and Studies*, I, p. 237.

<sup>44</sup> The first letters of ll. 4-7 are E'Z'R'A.

<sup>45</sup> Ps. 81.6.

<sup>46</sup> Ps. 111.1. Assaf finds the phrase "witnesses witnesses our witnesses, the congregation," unintelligible.

<sup>47</sup> Job 5.27.

<sup>48</sup> That is, a priest, the son of a priest (B'rākhōt 28a).

<sup>49</sup> Cf. Hagigah 5b. "Strengthen ye the weak hands," two lines further down, is quoted from Isa. 35.3.

mitted in the same way to Egypt, where the letter of recommendation was put in the Genizah? Why did the spiritual heads of the Babylonian and Syrian Jewries fear to put it down in writing? *A priori* we have reason to believe that the message dealt with Messianic hopes which were well defined. If these hopes were related to the conjunction of 1186, there was no need of this exaggerated secrecy. It is, however, not difficult to find the clue to this mystery. Assaf reads in the date  $\text{אָהפ"ו} = 1486$  Sel., but confesses that one could read  $\text{אָהפ"ג} = 1483$  Sel. which corresponds to 1172 C. E. If we adopt this reading, we arrive at a year which is well known to the students of Messianic movements. Since Geiger,<sup>50</sup> scholars had held the opinion, for a long time, that the *Iggereth Teman* of Maimonides was written in 1172. This opinion was based on a statement of Maimonides in his *Epistle* to the scholars of Provence where he says that he wrote the *Iggereth Teman* about 22 years previous. But this epistle is dated Tishri 1507 Sel.,<sup>51</sup> and by deducting 312 (cf. Mann in *JQR*, N. S., 17, p. 83) we have ascertained the year 1195 as its date, and 1173 as that of the *Iggereth Teman*. The fixing of the date was challenged by Baer who connected the Messianic movement in Yemen with the calculations concerning the year 1186 and therefore thought that the *Iggereth Teman* was composed some years later.<sup>52</sup> The history of Yemen in those years leaves, however, no doubt that the Messianic movement arose, indeed, about 1172. In the seventh decade of the twelfth century 'Abdannabi b. 'Alī b. Mahdī, a prince who followed the teachings of the fanatic Moslem sect of the Kharidjites, won great power in Yemen. It was the religious intolerance of this prince that drove the Yemenite Jews to despair. Some embraced the Mohammedan religion, others believed in a pseudo-Messiah. All this we learn from the *Iggereth Teman*. Even the name of the Moslem prince is mentioned there.<sup>53</sup> But, a short time after Maimonides' *Epistle* was written, the situation in Yemen changed. When Saladin had firmly established his rule in Egypt, he sent an expeditionary force to Yemen. This army, which was commanded by his brother Tūrānshāh, conquered, in May 1174, Zabīd, 'Abdannabi's residence, and took 'Abdannabi prisoner. It goes without saying that, under the Ayyubid rule, the Jews could openly follow

<sup>50</sup> *Moses ben Maimon* (Breslau, 1850), pp. 66 f.

<sup>51</sup> In the edition of Marx, *HUCA*, III, p. 357.

<sup>52</sup> "Eine jüdische Messiasprophetie auf das Jahr 1186 u. der dritte Kreuzzug," *MGWJ*, 70, p. 158. See, however, a note in Halkin's ed. of *Iggereth Teman*, p. V, where he mentions a private letter of Baer informing him that, meanwhile, he had given up his hypothesis.

<sup>53</sup> Ed. Halkin, p. 84.

their rites. Thus the Messianic movement came to its end. If we relate the mysterious letter of the Baghdad Gaon written in 1172 to these events, we can guess its contents.

The excitement at the beginning of the seventies originated in the situation in a remote country which had no connection with the course of events in the heart of the Moslem world. There were two main motive forces behind the Messianic movements in Oriental Jewish communities of that period: the calculations concerning the end of the fifth millennium and the impression made on Moslems and Jews alike by the struggle between Saladin and the Crusaders. Even the great Maimonides was not a stranger to the dreams of a forthcoming redemption. A prominent scholar expressed the opinion that Maimonides compiled his law code, the *Mishneh Torah*, as the constitution of the coming Jewish state.<sup>54</sup> The *Mishneh Torah* was completed in 1180. Be that as it may, the Jews kept a watchful eye on the campaigns of Saladin which culminated in his sweeping victory of Ḥiṭṭīn. They hoped that, after the downfall of Edom, something more momentous would happen. A document found in the Genizah tells us of a dream of Mauḥūb, a Jewish teacher, who dreamt in 1185 that, at the end of that year, the Egyptians would shed the blood of Christians and that in 1186 the redemption would begin.<sup>55</sup>

It seems that the Messianic excitement grew everywhere in these critical years. There was a strong agitation by means of epistles sent from community to community. Such an epistle, despatched in 1187 from Cairo to Fez, was published by Neubauer.<sup>56</sup> In order to give the news contained in it a more authentic character, the author of the letter hid behind the name of Maimonides. He reports that in 1479 there appeared in Isfahan a man called Abū Sa'īd b. Daudī who pretended to be the captain of the Messiah's army. Abū Sa'īd found many followers, even among the Moslems. He said, however, that the time to act had not yet come; and he kept in hiding for seven years. Then he appeared again and declared that one should wait three years more. Maimonides, so we are told in the letter ascribed to him, sent his brother David to Isfahan to ascertain whether the rumors about the appearance of the forerunner of the Messiah were true. He also asked Abū Sa'īd to solve eighteen Talmudic problems. After a year

<sup>54</sup> S. Zeitlin, *Maimonides* (New York, 1935), p. 85.

<sup>55</sup> This text was published by Mann, *Texts and Studies*, I, p. 458 and then by Assaf in *Zion*, V, p. 118 (who apparently overlooked the fact that it had already been published by Mann and therefore omitted it in his *M'qorōth u-meḥqārīm*, p. 148).

<sup>56</sup> *REJ*, IV, pp. 174 ff.



and a half David came back, reported that the news was true, and brought satisfactory answers to most of the Talmudic questions, which should be a proof that Abū Sa'īd was sent by the Almighty. The letter is included in a pseudo-biography of Maimonides supposedly written by a Jewish merchant hailing from Spain. In the introduction, this merchant says that he was living at Toledo, that he had left the town on the 14. Tammūz (4)946 = 3.7.1186, that he had spent fourteen months in Southern Spain and had then gone to Fez where he had been shown the letter. If all that is true, the falsified letter must have been written under the impression of the great victory of Saladin at Ḥiṭṭīn and the capture of Jerusalem.<sup>57</sup>

The contest between Saladin and the Christians was not yet finished. Upon the capture of Jerusalem the Western nations reacted with a great military expedition, the third Crusade. Two years, from 1189 to 1191, Christians and Moslems fought before the besieged town of Acre, both armies being reinforced, from time to time, by new corps, which came from many lands of Europe and Asia. Needless to say, the Jews, especially those in the adjacent countries, watched the struggle keenly and hoped that these events would be followed by greater ones, by the redemption of Israel. It seems that, during the siege of Acre, there appeared a Hebrew apocalypse called *The Prayer of R. Simon b. Yōḥay*.<sup>58</sup> It is an adaptation of an older apocalypse,

<sup>57</sup> Neubauer, *ibid.*, p. 173, David Kaufmann, *REJ*, 24, p. 115 and Halkin, *op. cit.*, pp. 108 ff. maintain that the letter is speaking of David Alroy. This opinion which was already contradicted by Baer in *MGWJ*, 70, p. 158 was enlarged and elaborated by Ibn Sh'mū'el (J. Kaufman), *Midr'shē g'ulāh* (2nd ed.) pp. 260 ff. According to him David Alroy began his career in 1160, appeared again in 1172, hid seven years until 1179, and was, in the eighties of the twelfth century, head of a Jewish army which was prepared to march to Palestine. So the forged letter would have been composed by his followers. Various arguments refute this theory. R. Benjamin of Tudela who probably visited Babylonia in 1168 says that David Alroy had risen ten years previously. But he mentions in this connection the prince of Mosul Saif ad-dīn, the brother of Nūr ad-dīn, who died in 1149, and therefore we must change עשר into עשר', i. e., twenty years ago, cf. Loeb in *REJ*, 16, p. 217, and we arrive at the time of the second Crusade, which was, on other grounds, assigned to the movement of David Alroy by Mann in *ha-T'qūfāh*, 24, p. 341. It is highly improbable that the same man headed a Messianic movement forty years later. Further, the text of the forged letter does not allow us to assume that Abū Sa'īd = David Alroy appeared in 1172. We read that he appeared  $7 + 1\frac{1}{2}$  years before the letter was written i. e. in 1179. Lastly the geographical indications do not conform. In the letter which is ascribed to Maimonides we hear of a movement at Isfahan, whereas David Alroy, according to R. Benjamin and to Samau'al b. Yahyā, appeared in the province of Mosul.

<sup>58</sup> Pub. by Jellinek, *Bēth ha-midrāsh*, IV, pp. 117-126.

*The Secrets of R. Simon b. Yōḥay*,<sup>59</sup> composed in the middle of the eighth century (even if parts of it belong to a previous period).<sup>60</sup> It is beyond doubt that *The Prayers of R. Simon b. Yōḥay* were written at the time of the Crusades, but one may perceive old fragments and later additions, omissions and distortions. The chronological order of events is neglected. We hear in the beginning (p. 119) that in the last days of his rule Ishmael will slay many Jews and compel others to embrace the Mohammedan religion. At that time the Christians will capture Jerusalem and massacre more than thirty thousand. It may be inferred with certainty that the persecution of the Jews by the Almohades and the first Crusade are referred to here.<sup>61</sup> Then (p. 120) we read something about the Caliphs of the Umayyad dynasty. This brief chapter is followed by a curious prophecy of an ugly nation of horsemen which will come from the East to fight with the Moslems and the "Ashk'nāzīm" and subdue the former. According to Graetz, in this chapter the Mongols are implied. Thus the master of Jewish historiography maintained that the apocalypse was composed in the middle of the thirteenth century.<sup>62</sup> The author of the apocalypse goes on to tell the story of the war between the Westerners and the Sons of the East which will be waged in Egypt. The Sons of the East flee from Alexandria to Cairo and then to Palestine. This may be an allusion to the campaigns of Amalric who tried in the sixties to conquer Egypt, but with no success.<sup>63</sup> The following section (p. 122) describes the war of Acre, this place being expressly mentioned. The author depicts the hard fighting before the besieged town and then speaks of a second battle at Megiddo, and the flight of the Christians. The last chapter (p. 123/4) contains the answer of an angel to R. Simon's question how the ingathering of the dispersed sons of Israel would occur. The angel predicts that, at the end of days, the Christians would wage war with the Moslems, conquer Palestine and kill many followers of Mohammed. Israel would have to suffer much, but at that time all the tribes would flock together to Jerusalem and the redemption would begin. This brief survey of the contents of the apocalypse is apt to show that there is only one certain date in this confused composition. It is the siege of Acre, whose outcome the author did not know. So we must assume that the apocalypse was written about 1190.<sup>64</sup> There

<sup>59</sup> *Ibid.*, III, pp. 78–82.

<sup>60</sup> This was convincingly proved by Graetz, V, note 16 (pp. 406 ff.).

<sup>61</sup> See Baer, *MGWJ*, 70, p. 162.

<sup>62</sup> Vol. VII, note 7 (pp. 408 ff.).

<sup>63</sup> Baer, *loc. cit.*

<sup>64</sup> Cf. Baer, *ibid.*, pp. 163, 165.

remains, however, the prophecy of the horsemen who will come from the East and defeat the Moslems. This prophecy, probably referring to the Mongol invasions, may be a later addition.<sup>65</sup>

The war of Acre is also described in another apocalyptic text which was edited by L. Ginzberg.<sup>66</sup> There will arise a Moslem king whose forces in Palestine will become stronger and stronger. The war between him and the Christians will be the war of Gog and Magog. The author expresses the hope that after this war the Messiah would arrive.<sup>67</sup>

## V

Let us turn aside from dreams and Messianic hopes and return to historical reality. Our coreligionists in Damascus and Cairo had to do the same. Their hopes were, however, not disappointed altogether.

<sup>65</sup> Ibn Sh'mū'el, *op. cit.*, p. 273, says that, in this passage, the author alludes to the Seljuk invasion. But it is clear that non-Moslems are spoken of, whereas the Seljuks were staunch supporters of orthodox Islam. The emphasis laid on the ugliness (i. e. strangeness) of the foreigners does not tally with Ibn Sh'mū'el's assertion, for the Turks were well known to the Arabs hundreds of years before the Seljuk invasion. If we are told that these horsemen are clothed in black, this may be understood in the same sense, i. e., that they came from a very remote country and their attire became tanned and black. That the Seljuks as supporters of the Abbasid Caliphs wore black uniforms is not proved by any quotation. We know only that they had black banners and that the khaṭīb, the official preachers in the mosque who were faithful to the Abbasid Caliphs wore black robes. Neither is Ibn Sh'mū'el's explanation of the fight between the horsemen and the Ashk'nāzīm satisfactory. He says that these Ashk'nāzīm are "Germans in the service of the Byzantine emperors in Asia." The statement that this strange people will subdue the Moslems and fight with the Ashk'nāzīm is in keeping with the history of the Mongols, who fought both with the Moslems and the Slavs and Germans. On the meaning of Ashk'nāzīm in that period, see Krauss, "Die hebr. Benennungen der modernen Völker," *Jewish Studies in Memory of George A. Kohut*, New York, 1935, pp. 387 ff., and M. Mieses in the Hebrew weekly *ha-'Ölām*, 15, no. 12 (pp. 238 ff.). The sanctuary (היכל) to be conquered by the invaders may be the Aqṣā mosque.

Ibn Sh'mū'el, p. 281 relates, furthermore, the conquest of Jerusalem which is mentioned in the last chapter of the Prayer of R. Simon b. Yōḥay to the first Crusade. But this is a prophecy and not a *vaticinatio ex eventu*, as the preceding parts of the apocalypse. In this chapter the Messiah bears the name of Nehemia b. Ḥūshī'el. Ibn Sh'mū'el, p. 283, clinging to his theory on the career of David Alroy, identifies him with the pseudo-Messiah whose purpose was to participate in the great contest on the Holy land, until he was ousted by Saladin. Thus the Prayer of R. Simon would be a pamphlet of the partisans of David Alroy, exactly as the letter written in 1187 and ascribed to Maimonides. It has, however, already been stated that David Alroy belonged to a previous period.

<sup>66</sup> *Ginzē Schechter*, I, pp. 310-12.

<sup>67</sup> This text is kindred to that dealt with before, and sometimes the same phrases are used. We may assume that both texts originated in the same circles.

The great victories of Saladin brought about a remarkable change in the situation of the Jews in Palestine.

It is a well established fact that the Crusaders, who in the beginning had adopted a very harsh attitude toward the native elements, changed their mind after some time. When the first outburst of fanaticism was over, they perceived how necessary it was for their principalities to grant their Oriental Christian, Moslem and Jewish subjects such facilities that everyone could follow his profession on relatively easy terms. In Tyre and Acre there were in this period large Jewish communities, whose economic standard seems to have been satisfactory. We do not hear about outrages against Jews, nor did the Crusader states implement the discriminatory laws which the Church had enacted against the Jews. Nevertheless the situation of the Jews under the rule of the Franks was precarious. They could not acquire real estate, were not represented in the law courts of the non-Latin population, and their own courts and communities were not recognized by the state. More adverse was the ill-feeling toward the Jews under the rule of the Crusaders, who were constantly reinforced by newcomers full of religious zeal. The Crusaders had forbidden the Jews to live in Jerusalem and Hebron or even to visit the holy towns. Later on, these regulations were relaxed and some Jews were allowed to settle in Jerusalem, but their number was very small. Benjamin of Tudela found four Jewish families in the city and R. P'taḥyāh one.<sup>68</sup>

When Saladin took Jerusalem, the Jews could return. Students of Jewish history know the passage in Y'hūdāh al-Ḥarīzī's *Taḥk'mōnī*, chap. 28, where he says that in 1190 Saladin proclaimed that Jews could settle again in Jerusalem. As the Hebrew poet speaks in a biblical language and compares the permission given by Saladin with that of Cyrus, some doubt has arisen as to the historical authenticity of his report. In order to examine the trustworthiness of al-Ḥarīzī's report, we should naturally ascertain whether such an act would have been in keeping with the policy of Saladin. The answer to this question must be in the affirmative. As more Oriental sources for the history of the Crusades are unearthed, we learn how Saladin and his predecessors Zengī and Nūr ad-dīn relied on the support of religious and ethnic groups which were not Moslem but were hostile to the Latins' rule. A Christian scholar from Jerusalem, Joseph Batit, was the adviser of Saladin in his relations with Christian princes. Even during the siege of Jerusalem, Batit was in Saladin's retinue and came in contact

<sup>68</sup> *The Itinerary of Benjamin of Tudela*, ed. Adler, p. 23; *Die Rundreise des R. Petachjah aus Regensburg*, ed. Grünhut, p. 32.

with the orthodox Christians in the city.<sup>69</sup> It is well known that the dubious attitude of the non-Latin Christians played a decisive role in the last days of the Crusaders' rule in Jerusalem. We may quote the reports of two facts which may shed light on the story told by al-Ḥarīzī. The capture of Edessa by 'Imād ad-dīn Zengī, in 1144, was a severe blow to the Crusaders. It was the first time that a great city of the Christians fell to the Moslems. In a Syriac source we read that Zengī brought 300 families of Jews to Edessa and settled them there.<sup>70</sup> The second report to be quoted bears on the capture of Jerusalem in 1187. According to the agreement between Saladin and the chiefs of the besieged town, its Christian inhabitants had to ransom themselves or become slaves. But the Oriental Christians were not affected by the capitulation. A contemporary Arabic chronicler reports that they asked Saladin for permission to stay in the town and to pay the poll-tax, as the non-Moslem communities did everywhere. Saladin agreed, and they bought from the Latins their estates and property.<sup>71</sup> 'Imād ad-dīn al-Iṣfahānī, the secretary of Saladin, says that the number of these Christians amounted to some thousands.<sup>72</sup> In view of these reports, whose trustworthiness can not be doubted,<sup>73</sup> why should we not believe that Saladin encouraged the Jews to settle in Jerusalem? The town was empty after the exodus of the Latins and, when native elements of the adjacent districts applied to the government for permission to settle there, it saw no reason to refuse.<sup>74</sup> Even al-Ḥarīzī's report of a formal permission or, as he says, a solemn proclamation, may be trusted. The canonical law of Islam does not prohibit Jews and Christians to live in any Moslem country except that of the Hejaz. But Jerusalem is a holy town to the Moslems too and after its capture by Saladin in the "Holy War," when fanaticism on all sides was blazing, the Jews may have found it reasonable to ask for permission, exactly as the Oriental Christians did. Some Jews may have gone to Saladin or to some high officer and received a favorable answer to their request. That al-Ḥarīzī gives the date 4950 A.M. = 1189/90 should

<sup>69</sup> See Runciman, *A History of the Crusades*, II (Cambridge, 1952), p. 465.

<sup>70</sup> See the translation of S. A. Tritton in *JRAS*, 1933, p. 291.

<sup>71</sup> Ibn al-Athīr, II, p. 366.

<sup>72</sup> See Abū Shāma, *K. ar-Rauḍatayn*, II, p. 115.

<sup>73</sup> Certainly it may be that the Syriac chronicler exaggerates the number of the Jewish colonists brought to Edessa, but this does not matter.

<sup>74</sup> H. Grousset, *Histoire des croisades*, II, p. 822, surmises that the Jews were invited to settle in Jerusalem because the Moslem conquerors were sure that, in case of a new Crusade, they would defend the town with great zeal. But this assertion must be corroborated.



not arouse suspicion, for it may be that the Jews applied to the Moslem government some time after the capture of Jerusalem.

So far neither in Jewish nor in Moslem historical sources has there been found a report confirming that of al-Ḥarīzī. Therefore attention should be drawn to the apocalyptic text published by Ginzberg, which was mentioned above. We read there<sup>75</sup> that "the Jews will no more be excluded from the Holy place of worship." This is a clear allusion to the permission given to the Jews by Saladin's government to return to Jerusalem. Since the author goes on to describe the war of Acre, which should precede the coming of the Messiah, we gather that the text was composed when this war was still going on. In other words, we have found a text written about 1190 which substantiates the reported return of the Jews to Jerusalem.

We need not elaborate on how much the permission to live in the Holy city mattered to the Jews. Before long it had a large Jewish community. Y'hūdāh al-Ḥarīzī who visited Jerusalem in 1216, says that he found there three congregations, the Ascalonites, the Maghrebi Jews, and the French ones. Surely the congregation of the Jews hailing from Ascalon was founded in 1191, when that city was razed by the Moslems, lest it should be taken by the approaching Crusaders, the inhabitants being evacuated.<sup>76</sup> The Jews of Morocco may have arrived some time later. We learn from Arabic sources that, after the capture of Jerusalem, there began an immigration of Moslems from Morocco to Palestine. The Maghrebi (Moslem) community, which exists in the Old City of Jerusalem to the present day, originated in that period.<sup>77</sup> The Jews who were persecuted by the fanatic Almohades went that same way. In 1211 there came a large group of French Jews who constituted the third congregation mentioned by al-Ḥarīzī. Thus a new stream of Jewish immigrants flowed into Palestine.

We may sum up this survey of the relations between Saladin and the Jews by saying that he was as friendly to them as to Moslems and to Christians, without being tolerant. The non-Moslem communities were not persecuted in his days, but he sowed the seed which resulted in their persecution.

<sup>75</sup> *Ginzē Schechter*, I, p. 311.

<sup>76</sup> See J. Prawer, "The Jews in the Latin Kingdom of Jerusalem" (in Hebrew), *Zion*, 11, p. 49.

<sup>77</sup> Cf. Ibn Khallikān, I, p. 623; Mujir ad-dīn, *al-Uns al-jalīl*, II, pp. 580 ff

## INVITATION TO INTOLERANCE

A study of the Portuguese sermons preached at autos-da-fé

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THE primary aim of the sermons addressed to convicted Judaizers at autos-da-fé was to refute once and for all their grave errors.<sup>1</sup> Accordingly, the fathers went to great length to explain, for the frightened victims, theological problems which, because of their intricacy, remained beyond their grasp. Though the priests considered a clear exposition of Truth their main task, they did not limit themselves to dealing with doctrinal differences. Rather, they felt justified in presenting a sweeping indictment of the "poison weed of Judaism." They extolled the labors of the ministers of the Inquisition, toiling restlessly to stem the tide of heresy, and they gave alarm to the dangers their beloved Portugal risked by tolerating within her boundaries the Crypto-Jews. As a result of this approach the inquisitorial sermons constitute a bitter and often brutal attack against Lusitanian Jewry on several fronts: religious, social, racial and national. Their vehemence is such that it is difficult for one to take seriously the professed aim of bringing back these estranged brethren to the fold of the Church.

The purpose of this article is to outline the conception of the Jew developed in these sermons, an image which, backed by the ecclesiastic prestige of the speakers, dominated for centuries the thinking of the Lusitanian man.

### I. THE DISPUTATION

#### I. CHRISTOLOGY AND MESSIANISM

Although we are told that only the binding force of the vow of obedience can compel a priest to undertake the task of addressing the perfidious Jews,<sup>2</sup> we may assume that this was not always as dis-

<sup>1</sup> See my forthcoming article "Portuguese sermons at autos-da-fé: introduction and bibliography" in *Studies in Bibliography and Booklore*.

<sup>2</sup> Francisco Pedrozo, *Exhortação dogmatica contra a perfidia judayca* . . . (Lisboa, 1713), p. 6. [In second mention, this and all the other sermons will be identified in the notes only by the name of the author. Where there are several sermons by the same author, they will be identified by the name of the author and the respective date of publication.]

In addition to the works quoted in the article mentioned above, I have been

tasteful a chore as we are led to believe. It offered a unique opportunity for showing that years of close study had not been spent in vain. In disputing against the archenemy of the Church, the orator could display his vast learning to convince everybody — (with the possible exception of the Marranos) — of the utter absurdity of Jewish errors. Traditionally the speaker was expected to overwhelm the accused with an impressive mass of quotes.<sup>3</sup> This intellectual shock therapy shortly becomes tedious and the sermons tax rather heavily the patience of the modern reader. It has been remarked that in nineteen centuries not much has been added to the argumentation of religious controversies between Christians and Jews; an analysis of the sermons will bear out this assertion.

A refutation of the Old Law presupposes that the difference between the two creeds be clearly established. Repeating an error previously made by the convert Geronimo de Santa Fé, a majority of our authors insist upon narrowing down these divergencies to essentially one problem: the Jews' refusal to recognize Christ as their Messiah. This belief is ably expressed by Philipe Moreira: "We disagree only on one point: He has come or He has not come, and this is the basis of all our controversies."<sup>4</sup> Since the acceptance of the Messianic claims

able to consult the following studies on Jewish-Christian relationships: Hans Joachim Schoeps, *Jüdisch-Christliches Religionsgespräch in 19 Jahrhunderten* (Berlin, 1937); Francisca Vendrell, "La obra de polémica antijudaica de Fray Bernardo Oliver," *Sefarad*, V (1945), 303-336; Bernhard Blumenkranz, *Die Judenpredigt Augustins. Ein Beitrag zur Geschichte der jüdisch-christlichen Beziehungen in den ersten Jahrhunderten* (Basel, 1946); Hans Joachim Schoeps, "Isaak Orobio de Castros Religionsdisput mit Philipp van Limborch," *Judaica*, II (1946), 89-105; A. Viñayo González, *San Martín de León y su apologética antijudía* (Madrid, 1948); Joaquín Carreras Artau, "La *Allocutio super Tetragrammaton* de Arnaldo de Vilanova," *Sefarad*, IX (1949), 75-105; Cecil Roth, "The disputation of Barcelona (1263)," *Harvard Theological Review*, XLIII (1950), 117-144, and Wilhelm Maurer, *Kirche und Synagoge. Motive und Formen der Auseinandersetzung der Kirche mit dem Judentum im Laufe der Geschichte* (Stuttgart, 1953).

<sup>3</sup> Francisco Vieyra, *Sermaõ . . .* (Coimbra, 1718), pp. 9-10, takes exception to this approach: "Não ignoro, que em semelhantes Actos o comum estylo de taõ grandes Prêgadores, & insignes Mestres consiste no empenho de accumularem ao seu intento grande copia de sagrados textos, & Doutores Catholicos, & portentozas machinas de autoridades de Rabbinos . . . Mas com licença de taõ insignes Mestres, & Prêgadores, as verdades de nossa Fè não necessitaõ de ser provadas, ou defendidas, & muito menos neste dia, nesta hora, & neste lugar; porque o *pulpito não he cadeira, em que se disputa, mas precisamente lugar em que se prêga . . .*" [The italics in this and all the following quotes are mine].

<sup>4</sup> Philipe Moreira, *Sermam . . .* (Evora, 1630), foll. 5<sup>r</sup>-5<sup>v</sup>; cf. Joam de Sousa Carvalho, *Sermam . . .* (Coimbra, 1697), p. 6, and Caietano de São Joseph, *Sermam . . .* (Lisboa, 1715), p. 11.

of Christ is made the center of the dispute, the argumentation has to be above all Christological; considerably less attention is paid to Trinitarianism, Mariology, and Ecclesiology.

The remonstrance against Jewish obstinacy starts with the fundament of all their errors: their excessive and unjustified *esperanza* ("hope" and "waiting" for the Messiah).<sup>5</sup> They must be shown that they are waiting for something which already has taken place, for an impossibility, since Christ, the Messiah, is known to have come more than sixteen hundred years ago.<sup>6</sup> Their presumed virtues of patience and constancy are unlikely to be rewarded, since they are patently motivated only by ignorance and obduracy.<sup>7</sup>

In attempting to prove that Christ is actually the Messiah promised to the Jews, the priests, leaning heavily upon patristic apologetics, deal in detail with several time-honored topics: the prefigurations of Jesus; Messianic prophecies; the miracles of the Savior and the astounding triumph of his doctrine. Since this is the least original part of the sermons, a summary discussion will be sufficient.

<sup>5</sup> Jewish *esperança* is scored by Manoel da Veiga, *Lavra de Anfriso* (Evora, 1627), fol. 131r: "Tu sò es infiel / Que o não conheces, improbo Israel. / Canalha infame que ha taõ longos dias / *Esperas cega, & triste outro Messias . . .*" This Jewish belief provides the background for a number of pleasantries. Francisco Rodrigues Lobo in his "Hospital de Cupido" (published by Ricardo Jorge in *Francisco Rodrigues Lobo* [Coimbra, 1920], p. 375) ridicules the ". . . desperdiçados por freiras . . ." because ". . . são suas esperanças como a dos Judeus, que esperam polo Messias . . ." Vicente Nogueira (*Cartas*, ed. A. J. Lopes da Silva [Coimbra, 1929], p. 211) in a letter dated March 5, 1650 declares: ". . . em suma esperamos ao Cesar como os Judeos ao seu mexias." And the satirist Thomaz Pinto Brandam, *Pinto renascido . . .* (Lisboa, 1732), p. 87, makes fun of Jewish expectations: "Muita gente, sem demora, / claramente, ou escondida, / anda, nesta mesma vida, / esperando a mesma hora: / e atè deraõ nisso agora / muitos dos que em Christo deraõ; / de que infiro (se o fizeraõ / fiados nas redempçoens) / que Judeos, e mais ladroens, / todos, neste Mundo, esperaõ." In his "Memorial em fê de officios, ao Secretario Bertholameo de Souza Mexia" Pinto Brandam, p. 19, exploits the comic potentialities of the name *Mexia*: "Este o Serviço he, que tenho feito, / porque o Habito pesso, e ando nisto / há tres annos e meyo, sem effeito; / *Sempre espero o Mexia, para isto: / mas não cuidem, que sou na fê sospeito, / a que delRey; despacheme, por Christo.*"

<sup>6</sup> Thomás de São Cyrillo, *Sermão . . .* (Lisboa, 1640), fol. 7v.

<sup>7</sup> Bento de Santo Thomás, *Sermão . . .* (Coimbra, 1673), pp. 2-3. On Messianism see Israel Lévi, "L'esprit de Dieu et l'esprit de Messie," *Festkrift . . . David Simon-sens . . .* (København, 1923), pp. 100-105; Lorenz Dürr, *Ursprung und Ausbau der israelitisch-jüdischen Heilandserwartung* (Berlin, 1925); Abba Hillel Silver, *A history of Messianic speculation in Israel* (New York, 1927); Hugo Gressmann, *Der Messias* (Göttingen, 1929); Moritz Zobel, *Gottes Gesalbter. Der Messias und die messianische Zeit in Talmud und Midrasch* (Berlin, 1938) and Lev Gillet, *Communion in the Messiah. Studies in the relationship between Judaism and Christianity* (London, 1942).

The typological interpretation of the Scriptures is an indispensable component of all anti-Jewish treatises. Since the Jews were known to put faith only in the Old Testament, they had to be convinced that it was but a prefiguration of the Gospel.<sup>8</sup> In support of this interpretation the orators cite a large number of *figurae*. Symbols for Christ, to name but a few, are: Abel murdered by Cain;<sup>9</sup> the ram sacrificed by Abraham;<sup>10</sup> Jacob resting his head on a stone;<sup>11</sup> the patriarch marrying two women;<sup>12</sup> his blessing Ephraim with crossed arms;<sup>13</sup> Joseph betrayed by his brothers;<sup>14</sup> Moses upholding the serpent of metal<sup>15</sup> or breaking the tables of the Law.<sup>16</sup> The typological exegesis, as usual, does not follow rigid rules, and the same Biblical personage can, under different circumstances, acquire a new meaning. The most versatile is Jacob, not only an *adumbratio* of Christ, but also, in his blindness<sup>17</sup> or when fighting with the angel,<sup>18</sup> a symbol of Judaism.

In a similar fashion the authors go to great pains to put across the Christological meaning of well-known passages from the prophets which the Jews have misinterpreted so far.<sup>19</sup> Invariably expounded

<sup>8</sup> Antonio das Chagas, *Sermão* . . . (Lisboa, 1654), p. 35, and Pedrozo, p. 25. On prefiguration see Iuan Rodríguez, *Sumulas de documentos de la predicacion evangelica* . . . (Sevilla, 1631) [especially ch. XI, fol. 16<sup>v</sup> ff., "Que todo el Testamento viejo fue figura de los mysterios de el nuevo, y como."]; Florentino Ogara, S. I., "Tipología bíblica, según S. Isidoro" in *Miscelanea Isidoriana* (n. p. n. d. [Sevilla, 1936?]), pp. 135-150; Leonhard Goppelt, *Typos. Die typologische Deutung des Alten Testaments im Neuen* (Gütersloh, 1939); Jean Daniélou, "La typologie de la semaine au IV<sup>e</sup> siècle," *Recherches de Science Religieuse*, XXXV (1948), 382-411; J. Coppens, "Les harmonies des deux Testaments," *Nouvelle Revue Théologique*, LXXI (1949) 345-360, and David Lerch, *Isaaks Opferung christlich gedeutet* (Tübingen, 1950).

<sup>9</sup> Bernardo Telles, *Sermam* . . . (Lisboa, 1709), p. 21.

<sup>10</sup> Pedro Corrêa, *Graça hebreia* . . . (Evora, 1627), fol. 4<sup>v</sup>.

<sup>11</sup> Manoel da Encarnação, *Sermam* . . . (Lisboa, 1628), fol. 5<sup>r</sup>; Antonio Coutinho, *Sermão* . . . (Lisboa, 1638), fol. 3<sup>v</sup> and Nuno Viegas, *Sermam* . . . (Lisboa, 1661), p. 13.

<sup>12</sup> Joseph do Nascimento, *Sermão* . . . (Coimbra, 1726), pp. 17-18.

<sup>13</sup> Manoel da Costa Soares, *Sermão* . . . (Coimbra, 1627), fol. A4<sup>r</sup> and Luis Alvares, *Sermam* . . . (Lisboa, 1672), p. 8. Frey Hector Pinto, *Segunda parte dos dialogos da imagem da vida Christam* (Lisboa, 1591), fol. 244<sup>ss</sup>, dedicates chapter X to discussing "Por que causa o Patriarcha Iacob cruzou os braços na benção dos filhos de Iosepho, & de muytos mysterios da cruz."

<sup>14</sup> Caietano de São Joseph, p. 7.

<sup>15</sup> Francisco da Costa, *Sermam* . . . (Lisboa, 1622), fol. 14<sup>r-v</sup>.

<sup>16</sup> Joseph de Oliveyra, *Sermam* . . . (Coimbra, 1691), p. 24.

<sup>17</sup> Francisco da Costa, fol. 18<sup>r</sup>.

<sup>18</sup> Estevam de Sant'Anna, *Sermão* . . . (Lisboa, 1618), fol. 19<sup>r-v</sup>.

<sup>19</sup> See Eduard König, *Die messianischen Weissagungen des Alten Testaments vergleichend, geschichtlich und exegetisch behandelt* (Stuttgart, 1923); Franciscus



are the hebdomads of Daniel,<sup>20</sup> a topic so insistently labored that early in the eighteenth century two authors seem to consider it beneath their dignity to dwell on such a threadbare argument.<sup>21</sup> (As a curiosum one could mention that Diogo de Areda gives Isaiah credit for having foreseen that the Portuguese would defeat attempts by the Jews to establish their sect in the Orient.)<sup>22</sup>

A comparison between Old Testament prophecies and what is known about Christ, his life, and passion from the account of his disciples, leads one to think that the Holy Men who announced his arrival "... seem rather historians who relate the past than Prophets who anticipate the future."<sup>23</sup> Their declarations, of unquestionable authority even for the incredulous Jews, are corroborated by Christ's miracles and by those performed in his name. By no means the least remarkable of these prodigies is that he and his disciples, a group of illiterate fishermen, were able to triumph over the greatest philosophers of their time, and to impose upon mankind — without force of arms<sup>24</sup> — a Law that makes no concessions to human appetites.<sup>25</sup> The great many miracles, wrought throughout the centuries, in confirmation of Christ's doctrine are considered a bold challenge to Jewish incredulity since Jewry can boast of no unnatural events authorizing their credence.<sup>26</sup>

Ceuppens, O.P., *De Prophetiis messianicis in Antiquo Testamento* (Rome, 1935), and Rafael Criado, S.J., *La Sagrada Pasión en los Profetas* (Madrid, 1945).

<sup>20</sup> Manoel da Encarnação, fol. 2<sup>v</sup>, and Valerio de São Raymundo, *Sermão* . . . (Lisboa, 1663), p. 13. See Pablo Caballero Sánchez, *La Profecía de las 70 semanas de Daniel y los destinos del pueblo judío* (Madrid, 1946).

<sup>21</sup> Diogo da Annuniação Justiniano, *Sermam* . . . (Lisboa, 1710), pp. 27–28, and Joseph do Nascimento, p. 25. An extensive list of all the prophecies which lend themselves to Christological interpretation is given by Domingos Barata, *Sermão* . . . (Evora, 1717), pp. 30–31. Isaac Orobio de Castro, *La observancia de la Divina Ley de Mosseh*, ed. Moses Bensabat Amzalak (Coimbra, 1925), pp. 39–40, makes short shrift of such allegorical interpretations: "Mas vos dezis . . . que el sentido de todas estas Prophecias, deve ser mistico, alegorico, methaphorico, mas nunca Dios mando a Israel que sea tambien Retorico, sino que no entienda su palabra añadiendo, ni quitando della. Sean las gentes en buena hora Israel mistico, methaphorico, que Israel se contenta con ser el verdadero Israel, deçendente de Abraham, simiento de Iahacob . . ." For the opposite view see Henri de Lubac, "Sens spirituel," *Recherches de Science Religieuse*, XXXVI (1949), 542–576.

<sup>22</sup> *Sermão* . . . (Goa, 1644), fol. 4<sup>r</sup>.

<sup>23</sup> Philipe Moreira, *Sermam* . . . (Lisboa, 1646), pp. 5–6, and Francisco de Santo Tomás, *Sermão* . . . (Lisboa, 1753), p. 8.

<sup>24</sup> Ayres de Almeida, *Sermam* . . . (Coimbra, 1697), p. 16.

<sup>25</sup> Ambrosio de Iesu, *Sermam* . . . (Lisboa, 1622), fol. 13<sup>v</sup>.

<sup>26</sup> Ioanne Mendes de Tavora, *Sermam* . . . (Lisboa, 1629), fol. 13<sup>r-v</sup>.

Proofs of the Messianic nature of Christ must not be sought only in the Scriptures. So undeniable is Jesus' Messianic mission that metaphorical attestations thereof are to be found even in the Talmud.<sup>27</sup> A good example is an often-quoted story, allegedly taken from this work, about a Jew who was told by an Arab to stop ploughing his fields because his Messiah had been born. Asked for more particulars by the Jewish farmer, the Arab declared that the redeemer had been born in Bethlehem and that his name was the "Consolator."<sup>28</sup>

Divine Providence also strove to dissuade the Jews from their Messianic hopes. According to their beliefs, the Messiah was to be born in Bethlehem as the son of a Jewess. Triumphantly our orators point up that Palestine is practically the only country where the presence of Israelites is not tolerated: "... only in Jerusalem you have neither a shelter nor power or possessions, although the masters of that city are the Turks, a people easily swayed by gifts and money."<sup>29</sup> Their exclusion from the Holy Land is not lacking in mystery; it is one of the devices God has chosen to manifest to them that there is no longer any foundation for their expectations.<sup>30</sup>

Convincing as these testimonies may be, the obstinate Jews — ironically, the etymology of their name means "he who confesses"<sup>31</sup> — cling

<sup>27</sup> Manoel dos Anjos, *Sermão . . .* (Evora, 1629), foll. 4<sup>v</sup>-5<sup>r</sup>, refers to the following story, allegedly taken from the Jerusalem Talmud. A Jew, named Jacob, cured a sick coreligionist by placing on his head a piece of paper with the name of Jesus inscribed on it. When the patient learned how he had been healed, he exclaimed that he "... antes quizera morrer mil mortes, que sarar por vertude desse nome de Iesu . . ." The same tale appears also in Ambrosio de Jesu's sermon, fol. 13<sup>r</sup>.

<sup>28</sup> Manoel Evangelista, *Sermam . . .* (Coimbra, 1619), foll. 11<sup>v</sup>-12<sup>r</sup>, and Telles, p. 29. See Gressmann, *op. cit.*; pp. 449-458.

<sup>29</sup> João de Ceita, *Sermão . . .* (Evora, 1624), fol. 13<sup>r-v</sup>.

<sup>30</sup> Moreira (1646), p. 11. Isaac Orobio de Castro, *Israël vengé. Ou Exposition naturelle des Prophéties Hébraïques que les Chrétiens appliquent à Jésus, leur prétendu Messie* (Londres, 1770), pp. 75-76, uses the very same argument to defend his faith: "Quand même les chrétiens prétendroient être le véritable Israel & qu'ils seroient reconnus pour les Israélites par le peuple de Dieu, pour celui à qui sa Divine bonté avoit promis le Messie, sa promesse est-elle accomplie dans celui qu'ils adorent? Il faut pour nous le prouver qu'ils nous fassent voir comment ils sont rassemblés dans la terre sainte que leurs peres avoient possédée. C'est le seul endroit où ils doivent jouir des fruits de cet avènement; ils sont aussi épars dans différentes parties du monde que les Juifs les plus errants, & Jérusalem est occupée par une nation qui les traite avec la même hauteur qu'ils traitent eux même les Israélites. C'est donc une fausse explication que les auteurs chrétiens donnent à la prédiction du Prophète . . ."

<sup>31</sup> José do Espirito Santo, *Sermão . . .* (Lisboa, 1664), p. 3. "... Iudeo quer dizer cõfîtete, homẽ q̃ crê, & q̃ cõfessa o q̃ ha de crer . . ." See also Joseph de Oliveyra

to the idea that the Messiah is still to come. Abandoning the terrain of theology, the priests next play upon the racial pride of the Marranos, emphasizing that God by incarnating as a Hebrew made the Israelites the most venerable of all nations.<sup>32</sup> They underline that the Messiah whom the Jews are asked to trust is one of their own race, a "close relative";<sup>33</sup> in addition, "... the cream and flower of the Church..." are also of Jewish origin.<sup>34</sup>

Such sound proofs fall on deaf ears and the priests, therefore, attempt to do away with the objections which the Jews have in accepting the Messianism of the Church. Doctrinal scruples account only to a small degree for their obduracy. True enough, they have been led to believe by their spiritual guides that the Messiah will be merely a human being — rather than God and man at the same time — and that he will redeem solely Israel (instead of all mankind), but of greater transcendence is the fact that the Messianic concept of the Jews is a mirror of their idiosyncracies, and few know them better — or so they believe — than our fathers. Illustrative of their attitude toward Jewry is a simile by Father Francisco de Mendonça:

Place in the one hand of a child a diamond worth 30,000 *cruzados*; place in the other a three-penny apple. Let the child choose. It will regard the diamond and toss it away as if it were worthless. It will look at the apple and it will surely want to keep it. Here you have an example of Israel. Silver, gold, earthly possessions — that is to say a child's treasures — are venerated and enshrined in their soul. But Divine Grace, heavenly glory, God Himself, their true Messiah, their Redeemer Jesus Christ, all these, true and solid possessions, beneath their feet, utterly despised.<sup>35</sup>

A people so engrossed in material pursuits is unlikely to heed Him who teaches that worldly possessions must be scorned. Conversely, they will never tire of waiting for a Savior conceived as a dispenser of wealth and honor. "... this error arises" — writes Antonio Coutinho — "from their being so coarse, materialistic and given over to earthly things that they no longer pine for Heaven and eternal blessings, and they cling so much to the flesh that they are no longer concerned

(1691), p. 30 and Diogo da Annunciaçam Justiniano, *Sermam*... (Lisboa, 1705), p. 45.

<sup>32</sup> Alvaro Leitão, *Sermão*... (Lisboa, 1666), pp. 26–27.

<sup>33</sup> Barata, p. 69.

<sup>34</sup> Ambrosio de Jesu, fol. 5<sup>v</sup>; see also Ceita, fol. 5<sup>v</sup>.

<sup>35</sup> *Sermão*... (Coimbra, 1619), p. 9.

with the spirit . . ."<sup>36</sup> And Valerio de São Raymundo echoes: "... all their bliss and their desires are centered on worldly possessions, for not even in their dreams do they remember Heaven."<sup>37</sup> Not redemption from sin is the aspiration of the Jews, but a pleasure-filled life or, to use the ingenious formula of Manoel Fagundes: "... you are pursuing two paradises at the same time, so that you will enjoy on earth that of the Mahometans, and in Heaven that of the Christians."<sup>38</sup>

Thus the Jewish concept of the Messiah can be traced for its origin to both an innate longing for temporal goods and to an equally compelling urge to find some subterfuge for not recognizing Christ. Since Jesus was poor, for contradiction's sake the Jewish savior had to be a powerful, wealthy man, surrounded by a fabulous entourage, ready to subdue by force all those who held the Jews in captivity. "But listen to the qualities of the Messiah whom they are expecting . . . Surrounded with great pomp and secular splendor . . . With a larger following and more women than Solomon had . . . Very powerful in arms and mighty in warfare so that He will be able to free them from the servitude they are enduring . . . Let the kings beware of such vassals as the Jews are, for they hope that their Messiah will destroy all the monarchs in whose lands they live . . ."<sup>39</sup> It is especially the secular powers associated with this Messianic ideal which give rise to the indignation of our authors. They feel that on the basis of such a criterion Alexander, Caesar or Nero should be classified as redeemers.<sup>40</sup>

Our priests are cognizant of the fact that in the Talmud there are Messianic legends which contrast sharply with the ideal they have commented on as representing Jewish beliefs. Reversing completely their position, the fathers pretend that only a strict, textual interpretation would be suitable for these tales. Their approach is motivated by the desire to ridicule Judaism by all possible means. The amazement of the Catholic audience at the ultimate goal of Jewish expectations must have given way to laughter when they learned that,

<sup>36</sup> *Op. cit.*; fol. 5<sup>r</sup>. Gil Vicente, *Diálogo sobre a Resurreição* (in *Obras*, J. V. Barreto Feio e J. G. Monteiro eds. [Lisboa, 1843], I, 352) also derides the worldly character of the Jews' Messianic ideal: "Porque essas farturas que a terra antremette, / Forão creadas pera os animaes, / E que o Deu poderoso essas cousas taes / Não nas estima, nem dá, nem promete; / E que o Mexias, / Se bem entendermos nossas profecias, / Não vinha a fatar os corpos de mel."

<sup>37</sup> *Op. cit.*; p. 12.

<sup>38</sup> *Sermam* . . . (Coimbra, 1625), p. 21.

<sup>39</sup> Ceita, fol. 8<sup>r</sup>.

<sup>40</sup> Francisco de Santa Maria, *Sermam* . . . (Lisboa, 1706), p. 30. For a defense of the Jews' conception of the Messiah see Orobio de Castro, *La observancia* . . ., pp. 46-47.

according to some rabbis, the Messiah went begging for alms in Rome.<sup>41</sup> Nor do the orators find it difficult to make short shrift of a Messiah unable to leave his island<sup>42</sup> or hidden in the Caspian mountains.<sup>43</sup> The large number of Messiahs accepted by the Jews — Diogo da Annuniação Justiniano compiled a list of fourteen<sup>44</sup> — also vindicates the utter absurdity of Jewish expectations.

There are, as we have seen, many flaws in the Messianism of the Jews. None is more incensing than the assertion that the arrival of the Messiah has been delayed because a great many Hebrews have accepted conversion. "Surely you have a most sensitive Messiah" — João de Ceita retorts —; "simply because a few Jews became sincere Christians, He has as yet not shown Himself. On the other hand, the vast majority who have rejected Christ could not induce Him to come."<sup>45</sup> The flimsiness of this argument is its best refutation.

<sup>41</sup> Accursio de São Pedro, *Sermam* . . . (Evora, 1644), fol. 9<sup>r</sup>, and Sousa Carvalho, p. 15.

<sup>42</sup> Mendes de Tavora, fol. 21<sup>v</sup>: "Outros fingirão que elle està em hũa Ilha no mar Oceano muito perto de terra firme, mas que o estreito não se pode nauegar, se não nos Sabbados, & que nestes dias se não pode caminhar, cõforme a vossa Ley, & que assi o não podeis ver."

<sup>43</sup> Diogo da Annuniação Justiniano (1705), p. 11.

<sup>44</sup> *Op. cit.*; p. 38. Manoel dos Anjos, *Sermão* . . . (Evora, 1615), p. 29, describes Jewish gullibility in matters pertaining to the expected Messiah with a striking metaphor: "Em fim sois como os Cabritinhos que em sahindo do curueyro a primeyra cousa com que topaõ seja homem seja bruto de qualquer sorte, logo se arremeção a elle como se fora a Mãy propria."

David Neto, *Respuesta al sermon, predicado por el Arçobispo de Cangranor* . . . (Villa-Franca, 1729 [?]), p. 68 stresses that a nation which embraced so enthusiastically the Messianic cult of the lost king Dom Sebastião should show more understanding for the Jews' willingness to accept a few pseudo-Messiahs: "Por ventura no huvo, y hay en Portugal hasta el dia de oy, quien espera al Rey Don Sebastian? no uvo en los passados siglos, uno que fingió serlo? y no se escriuieron Libros en su abono? Pues si esto sucede en una Nacion libre, solo por la ancia de rever un Rey que estimava: que mucho padeciese semejante engaño, una Nacion oprimida; con la Esperança de ver un Rey que Dios le tiene prometido?" For Neto's vindication of Judaism see Jakob J. Petuchowski, *The theology of Haham David Nieto. An eighteenth century defense of the Jewish tradition* (New York, 1954).

<sup>45</sup> Ceita, fol. 9<sup>r</sup>. Cf. Francisco de S. Maria, p. 20. Orobio de Castro, *La observancia* . . . , p. 73, attributes the prolonged captivity of Israel to the fact that many of his brethren renounced the faith of their fathers: "... puede ser que per los muchos deste pueblo que dexando la aliansa que havia hecho con Dios abrasaron el Xptianismo papista, padesen tan larga cauptividad siendo innumerables las familias Israeliticas q̃ entraron a la Yglezia Papistica en todos los siglos, pues no ay Monasterio de Frayles que en España no conste de hijos de Iudios, los Clerigos, los mismos Inquisidores, todos son, o tienen parte desta Naçion, y quasy todas las familias de Portugal . . ."



## 2. MARIOLOGY AND TRINITARIANISM

The understanding of divine truth is too serious a matter for more than infrequent jests about Jewish gullibility, for the speakers realize that fanciful tales alone do not account for the obstinacy of the accused. One of the great difficulties for the Judaizers is the mystery of the Virgin Birth of Christ. They refuse to believe that Mary conceived "... without the knowledge of man ...," remaining a Virgin after the birth of Jesus, a miracle clearly forecast by the prophets.<sup>46</sup> Following the *Letter* of Rabbi Samuel, the priests point out the pertinent passages in Isaiah [7.14 "Behold, a virgin shall conceive, and bear a son, and shall call his name Immanuel"] and in Jeremiah [31.22 "For the Lord hath created a new thing in the earth, A woman shall compass a man"].<sup>47</sup> The doubt of the Jews is all the harder to understand since they readily believe that the bottom of the Red Sea remained covered with flowers after they had crossed it; nevertheless, they deny that "... the Son of God ... could pass from the womb of a Mother to this world without withering the beautiful flowers and virginal roses of his Divine Mother."<sup>48</sup> As a last — and perhaps more effective — recourse, another appeal is made to the national pride of the accused: Mary, being a Jewess, should command their veneration.<sup>49</sup>

Although repeatedly the claim is advanced that the only significant difference between Judaism and Catholicism is whether or not the Messiah has come, there is ample evidence that the preachers were cognizant of the much broader range of divergencies between the two

<sup>46</sup> Antonio das Chagas, pp. 19–20. See P. Alberto Colunga, O.P., "La Madre del Mesías en el Antiguo Testamento," *La Ciencia Tomista*, LXXVII (1950), 68–83.

<sup>47</sup> *Carta, que hum rabbino chamado Samvel, escreveo a outro rabbino chamado Isaac . . .*, tr. Francisco Fernandez Prata (Lisboa, 1673), p. 19. See also Evangelista, fol. 6<sup>r</sup>, and Bernardo de Castelbranco, *Sermaõ . . .* (Coimbra, 1714), p. 7.

<sup>48</sup> Leitão, p. 24. It bears mentioning that for Father José do Espírito Santo, pp. 3–4, the crossing of the Red Sea by the Jews is a *praefiguration* of baptism.

A traditional argument of the Jewish-Christian controversy, the famous "Siloh" passage is often discussed in Iberian anti-Semitic tracts. See Ioam Baptista d' Este, *Dialogo entre discipulo, e mestre catechizante* (Lisboa, 1621), fol. 140<sup>v</sup>; Fernão Ximenes de Aragão, *Doutrina Catholica . . .* (Lisboa, 1625), fol. 85<sup>r</sup>, and Benito Remigio Noydens, *Visita general, y espirital colirio de los indios . . .* (Madrid, 1662), p. 88. Cf. also Neto's refutation, *op. cit.*; p. 48. (I have been unable to consult A. Posnanski, *Schiloh. Ein Beitrag zur Geschichte der Messiaslehre* [Leipzig, 1904]).

<sup>49</sup> Leitão, p. 25.

faiths. The priests point out that a Messiah, who is conceived as God and man is unacceptable to their Neo-Christian listeners who, in their malice or ignorance, pretend that to believe in God the Father and God the Son (the Messiah) implies renouncing monotheism. The Messiahship of Jesus cannot be explained without taking up as well the more intricate problem of the Trinity. No longer can one rely exclusively upon reason: faith has to provide a key to this mystery.

This does not mean, however, that Scriptural testimonies for Trinitarianism are lacking. Typological exegesis again comes up with a remarkable number of prefigurations such as the three men appearing to Abraham, the wood, the fire and the sword with which Isaac was to be sacrificed, or the three stones upon which Jacob rested his head.<sup>50</sup> Revelations of the Holy Trinity are also found in Exodus [34.6 "And the Lord . . . proclaimed, The Lord, the Lord God, merciful and gracious . . ."] and in Isaiah [6.3 "Holy, holy, holy is the Lord of hosts . . ."].<sup>51</sup> Even grammatical subtleties are pressed into the service of proselytism. The use of the "plural" *Elohim* together with the verb *bara* in the singular demonstrates that Divine wisdom employs the most hidden devices to reveal that God is one and trine.<sup>52</sup> Credit for all this erudition can rightly be claimed by Galatin who provided our fathers with doctrinal ammunition against his former co-religionists.<sup>53</sup>

Jewish pertinacity in denying the Trinity reflects the attitude of a people who fail to realize that the ineffable mysteries of Divine nature go beyond the limitations of human intelligence.<sup>54</sup> Some Marranos,

<sup>50</sup> Manoel Pereyra, *Sermam . . .* (Lisboa, 1683), pp. 10–12. For a defense of Trinitarianism against Jewish unbelievers see P. Diego de Iturrate, tr., *La Verdadera Fé triunfante en la explicacion de el incomprehensible Mysterio de la Santissima Trinidad, al siempre ciego, miserable y obstinado Hebraismo, en forma de disputa entre el Christiano, y el Hebreo; finalmente resuelta a favor de la Verdad: esto es, que no se puede dar Dios, sino Uno en Essencia, y Trino en Personas. Obra, y estudio de Jayme Cavalli . . .* (Madrid, 1772). [This work was unknown to Meyer Kayserling.]

<sup>51</sup> Antonio das Chagas, pp. 15–16, and Antonio Ferreyra, *Demonstraçam da verdade de nossa Sancta Fee . . .* (Evora, 1670), p. 13.

<sup>52</sup> Diogo da Annuniação Justiniano (1710), p. 20. Este, *op. cit.*; fol. 3<sup>r</sup>, offers a Trinitarian interpretation of the verb *barà*: "A primeira letra daquella palabra barà, criou, he beth, a qual significa ben, filho, a segunda he resc, que significa ruac, que quer dizer Espirito, & a terceira he Aleph, que significa Ab, que he Pay. Consideremos tambem, que nesta palaura bara, que quer dizer criou, està incluso, Pay, Filho, & Espirito santo, & esta he a sātissima Trindade . . ."

<sup>53</sup> Ximenes de Aragão, *op. cit.*; fol. 124<sup>r-v</sup>, and Vieyra, p. 12, recognize their indebtedness to Galatin.

<sup>54</sup> Francisco de Santa Maria, p. 22.

carrying their daring to the extreme, even brazenly affirm that Trinitarianism — and the cult of images<sup>55</sup> — clearly identify the Catholics as idolaters.<sup>56</sup> Practical rather than theological arguments are employed for the rebuttal. God's attitude toward idolaters is well known; the favors which He so freely bestows on the Catholics while at the same time increasing the punishment of the Jews are the best vindication of Catholicism.

### 3. APOLOGY OF THE NEW LAW, ECCLESIOLOGY

The Jews should be the very last people to lay idolatry to others since this abominable vice so often disgraced their nation in pre-Christian times. By a strange paradox the worship of idols ceased among the Jews after the crucifixion of Christ and from then on they adhered scrupulously to Mosaic Law.<sup>57</sup> Nothing, however, could be more erroneous than the assumption that they had purged themselves of their former weakness. Idolatry remained with them, but in a guise: the stubborn adherence to their now invalid creed. Contrary to Jewish belief, the Old Law was not meant to be perennial and was abrogated

<sup>55</sup> Barata, p. 64. Cf. Vicente da Costa Mattos' anecdote (*Breve discurso contra a heretica perfidia do iudaismo* . . . [Lisboa, 1622], fol. 60<sup>v</sup>): "... hum christão nouo dos que vendem panos de linho, vendo que outro seu companheiro enfermara de sorte, q̃ era necessario contemporisar com os vizinhos, (que visitandoo podião notar não auer imagẽ algũa naquella casa) buscou hũa da Virgem nossa Senhora, que lhe pos defronte da cama, a qual vendo o tal doente, gritaua dizendo que lhe tirassem daly aquillo, que lhe fazia dór de cabeça, que as imagens aborrecem elles principalmente . . ."

Menasseh ben Israel, *Vindiciae Judaeorum* . . . (n. p., 1656), p. 17, offers the following comment on the cult of images: "... if by chance an Israelite should passe by a Church, that had images on the outside, and at that time a thorn should run into his foot, he may not stoop to pull it out, because he that should see him, might suspect he bowed to such an image."

<sup>56</sup> Orobio de Castro, *La observancia* . . . , pp. 68–69, writes: "... solamente aquellos que o de su coraçon, o por violencia entraron en el Xptianismo, cayeron nesseçariamente en el peccado de la ydolatria, en España . . . y en ydolatria tan abominable . . . adorando el pan por Dios, y dos palos cruzados, como al mismo Dios, infinitos hombres muertos, sin numero de ymages y figuras de los animales brutos. Al cordero de S: Agnes, la perdis de S: Nicolas, el puerco de S: Anton, el toro de S: Marcos, los huessos de los finados, los sucios liensos de sus cuerpos, y en fin la ançiana ydolatria, ni tubo tantos Dioses y Diosas, ni tan abominables irracionales cozas aquien diese adoracion y Div<sup>o</sup>: culto . . ."

For a refutation of Orobio de Castro's contention see Este, *Didálogo* . . . , fol. 2<sup>r-v</sup>, Noydens, *op. cit.*; p. 45, and Francisco de Santa Maria, pp. 24–25.

<sup>57</sup> Christovam de Almeida, *Sermam* . . . (Lisboa, 1664), p. 49.

with the birth of Jesus.<sup>58</sup> Consequently, to seek salvation through Judaism is sheer madness.<sup>59</sup>

By means of striking comparisons our authors seek to impress upon the condemned the fact that their religion has been truncated. Ambrosio de Jesu writes: "I hold that Judaism is today like the Dead Sea of Judea. No life is created in it. In this Dead Sea of the Jews which we see here, everything today is dead. They have only a few ceremonies left, all false and meaningless. Although they appear to be fruitful, they are completely sterile . . ." <sup>60</sup> Moses, their venerable legislator, is seen as a speaker who, after having delivered a graceful and polished discourse, gives up his chair to the next orator.<sup>61</sup> Christ, who occupied the rostrum after him, so perfected his doctrine that the Law of Grace is in every respect superior to the Old Law, which may only be considered its shadow.<sup>62</sup> The demands which the New Testament makes upon the faithful attest to its greatness: the Catholic is required to believe in mysteries which human reason strives to understand in vain; he is compelled to observe a form of conduct which clashes with his own inclinations. Correspondingly great are the guerdons it proffers, since temporary rewards are replaced by spiritual ones.<sup>63</sup>

A contrast similar to that between the Old Law (*Ley cansada*) and the Law of Grace is also to be observed in the antagonism between the Church and the Synagogue. Francisco Vieyra brings this opposition into focus by a string of antithetical allegories: "The Synagogue is a confused labyrinth which, having roads leading to perdition, does not offer you a single door to salvation. It is a bramble of pricking thorns. It is a sea of ferocious lions. It is an Egypt of tears and torments. It is a confused Babel. It is a cemetery of bones. It is a purgatory for living people. It is an Inferno of desperate men. Quite the contrary holds true for the Catholic Church. It is a Heaven inspired

<sup>58</sup> Luis da Silva, *Sermam* . . . (Lisboa, 1674), p. 22, and Barata, p. 40. See Miguel de Barrios' (Daniel Levi de Barr[il]os') defense of Mosaic Law, *Metros nobles* . . . (Amsterdam, n. d.), p. 5: "Que religion o que secta / huvo, ni hay entre la gente, / que con el tiempo no acabe, / que de un modo persevere. / Mas la Mosayca Verdad, / escollo entre olas crueles, / ni se muda en el combate, / ni en la tempestad perece. / . . . Y la [i. e. Ley] de Dios es tan firme / por el pueblo menos fuerte, / que ni el asalto la abate, / ni en la esclavitud fenece. /"

<sup>59</sup> Pedro Corrêa, fol. 4<sup>r</sup>.

<sup>60</sup> Ambrosio de Jesu, foll. 13<sup>v</sup>-14<sup>r</sup>.

<sup>61</sup> Accursio de São Pedro, fol. 4<sup>r-v</sup>.

<sup>62</sup> Diogo Cesar, *Sermam* . . . (Lisboa, 1649), p. 27.

<sup>63</sup> Pedro Corrêa, fol. 5<sup>v</sup>; Costa Soarez, fol. B<sub>3</sub><sup>r</sup>; Sebastião do Couto, *Sermão* . . . (Lisboa, 1627), fol. 16<sup>v</sup>, and Silva, pp. 20-21.

with virtues. It is an earthly Paradise filled with flowers. It is a Potosi of wealth. It is infinitely rich in precious jewels."<sup>64</sup> God's protection of the Church is in keeping with the perfection of its doctrine. Judaism, like a wife unworthy of trust, remained locked up in Palestine.<sup>65</sup> Catholicism, on the contrary, could not be walled in and continues to triumph in every part of the earth. The successful propagation of Catholicism stands out the more vividly in view of the outright rejection of Mosaic Law by all the nations except the Israelites.<sup>66</sup>

#### 4. COMMON SENSE REASONS: THE REJECTION OF ISRAEL AND THE DIASPORA

Our authors like to imagine that the Jews, unable to counter the *motivos da fé* (the previously explained theological arguments), far from accepting the truth revealed to them, steadfastly hide behind their ignorance. Their rabbis, the Jews assert, could find the proper rebuttals which they in their simplicity cannot adduce. Such a subterfuge is of no avail as far as the last great argument in the century-old dispute between Christianity and Judaism is concerned. Scholarship is not required to grasp the veracity of this statement; daily experience argues this point more convincingly than the Doctors of the Church.

Before God sent Christ, His Messiah, the relationship between God and the Jews was such that one could properly speak of Israel as His first-born people.<sup>67</sup> The Hebrews belonged to the House of God, "... they had Him within their walls ... He lived among them."<sup>68</sup>

<sup>64</sup> Viegas, pp. 19–20. The Spanish dramatist Juan Pérez de Montalbán (1602–1638) wrote an *auto sacramental*, *El Polifemo*, which deals with the dispute between the Church and the Synagogue. See H. Pflaum, *Die religiöse Disputation in der europäischen Dichtung des Mittelalters. Erste Studie. Der allegorische Streit zwischen Synagoge und Kirche* (Genève, 1935), pp. 87–91. For a related study see Margaret Schlauch, "The Allegory of Church and Synagogue," *Speculum*, XIV (1939), 448–464.

<sup>65</sup> Francisco da Costa, fol. 17<sup>v</sup>.

<sup>66</sup> Antonio das Chagas, pp. 32–33. Ceita, fol. 9<sup>v</sup>, stresses that the number of followers by itself does not authorize a religion: "... não imagineis q̃ dais credito á ley cõ a multidão q̃ de vos prendê, & cada dia sãe sambenitados, & reconciliados, ou para ir mais ao certo, mais judeus (porq̃ desta maneira melhor q̃ a vossa seria a heresia de Arrio q̃ inficionou todo o mundo; & a de Lutherô, & Caluino, que so em França, & Alemanha tem mais gente, do q̃ vos em toda a Europa: & a ceita de Mafamede q̃ leua a mór parte de Africa, & Assia."

<sup>67</sup> Estevam de Sant'Anna, fol. 5<sup>r</sup>; Francisco da Costa, fol. 1<sup>r</sup>; Alvaro da Costa, *Sermão* ... [MS, preached in Coimbra, May 7, 1634], fol. 6<sup>r</sup>, and Thomás de São Cyrillo, fol. 2<sup>r</sup>.

<sup>68</sup> Bento de Sequeira, *Sermam* ... (Lisboa, 1642), fol. B<sub>3</sub><sup>r</sup>.



On many occasions God showed deep concern for the fate of His people, and the favors He bestowed upon them aroused the envy and admiration of other nations.<sup>69</sup> Then suddenly the Jews lost their kingdom, their Temple, their prophets, their priesthood, the Promised Land, their Law and their liberty — and they would have lost even more, had there been more to lose.<sup>70</sup> This radical change in the Lord's attitude toward Israel cannot be glossed over as just one among the many punishments inflicted from time to time upon the nation when it rebelled against its God. The Jews must have committed a crime of such gravity that Divine Justice could show neither pity nor forgiveness: the heinous offense which brought about a complete reversal in the history of Jewry was deicide. This is the cornerstone of the indictment of Judaism and the Jews. In every single sermon fullest attention is given to Jewish responsibility for the murder of Christ. The aim of this emphasis is twofold: to arouse the religious fervor of the Christian audience and to impress upon the accused the enormity of their crime. A thorough description of Jewish atrocities is instrumental in driving this point home. A good example is Bernardo de Castelbranco's treatment of the passion of Jesus, "...whom your forefathers arrested, whipped, slapped, insulted, mocked, wounded, hurt and nailed to a Cross between wicked thieves. Finally, after harassing him to death, they shamefully murdered him."<sup>71</sup> The priests feel eminently justified in implicating the Marranos in this nefarious murder, because, as Saint Augustine wrote, to deny Christ is tantamount to crucifying him once more.<sup>72</sup>

The task of meting out their just deserts to the culprits was not

<sup>69</sup> Moreira (1646), p. 13, and Viegas, pp. 6-7.

<sup>70</sup> Mendonça (1619), p. 45.

<sup>71</sup> Castelbranco, pp. 27-28. Orobio de Castro, *Israël vengé* . . . , p. 98, dryly comments: "...l'on ne sçauroit accuser les Juifs de l'avoir fait mourir, puisque suivant la doctrine chrétienne il n'étoit venu au monde que pour cela. Les Israélites ont donc exécuté par cette mort le décret de la justice divine & les chrétiens leur doivent leur salut. Avec quelle ingratitude paient-ils la plus importante obligation! . . ." See Karl Ludwig Schmidt, "Der Todesprozess des Messias Jesus. Die Verantwortung der Juden, Heiden und Christen für die Kreuzigung Jesu Christi," *Judaica*, I (1945), 1-40, and Jules Isaac, "Le crime de déicide" in *Jésus et Israël* (Paris, 1948), pp. 349-549.

Fray Rodrigo de Yepes published a palpably fraudulent "Copia de la sentencia que pronuncio Poncio Pilato contra Iesu Christo nuestro Señor" as part of his *Tractado y descripción breue y cõpendiosa de la tierra Sancta de Palestina* (Madrid, 1583), foll. 86<sup>v</sup>-88<sup>r</sup>.

<sup>72</sup> Manoel Rebello, *Sermão* . . . (Lisboa, 1638), fol. 14<sup>r</sup>; Joseph de Oliveyra, *Sermam* . . . (Coimbra, 1707), pp. 33-34; Caetano de São Joseph, p. 4, and Joseph do Nascimento, p. 28.

left to human justice alone. True enough, the Inquisition has seen to it that the blood of Christ has finally fallen upon the descendants of his victimizers. But only God Himself, by dispersing them over the whole world, could fulfill the prophecy of Isaiah (22.18) that the Israelites would be like a ball tossed into a large country.<sup>73</sup> "... without God, Law or King..."<sup>74</sup> — this phrase best sums up the severity of their plight, a captivity which has lasted for more than sixteen centuries. Like gypsies they are forced from one country to the other,<sup>75</sup> since they do not have even a palm of earth they can call their own, a blessing not denied the most barbarous nations.<sup>76</sup> For the Jews the world is but a gigantic prison.<sup>77</sup> Nowhere will they be granted permanent residence, and even all their money is insufficient to acquire a homestead; at best, they can hope to secure temporary lodgings from which they will be expelled shortly afterwards.<sup>78</sup> The reason for their world-wide dispersal is evident. Just as human justice exhibits in four directions the parts of an executed criminal's body, so had God exposed the quarters of this nation in the four corners of the earth. And to the inquiry as to why this people has been quartered, the same answer should always be given: because they have murdered their Messiah.<sup>79</sup>

The sharp and shocking contrast between the Jews' former glory and their present wretched state provides the orators with an excellent opportunity for the use of a "black and white" technique in which they excel. With rhetorical virtuosity they dwell upon the Hebrews' enviable past so that their present misery will become more clearly measurable. For greater effect the Jews of pre-Christian times are raised above the admired models of classical antiquity: "... a gust of wind was the fame of the Greeks in comparison with yours; you obscured the Goths . . . and left even the Caesars far behind . . ."<sup>80</sup> Bento

<sup>73</sup> Francisco da Costa, foll. 8<sup>v</sup>–9<sup>r</sup>.

<sup>74</sup> Pedrozo, p. 22.

<sup>75</sup> Accursio de São Pedro, fol. 11<sup>r</sup>.

<sup>76</sup> Andre Gomez, *Sermão* . . . (Lisboa, 1621), foll. 8<sup>v</sup>–9<sup>r</sup>.

<sup>77</sup> Mendonça (1619), p. 37, and Moreira (1630), fol. 15<sup>v</sup>. See also Coutinho's strange interpretation of the travels of Benjamin de Tudela (fol. 9<sup>r</sup>): "E o que mais encarece esta cegueira, he o testemunho de hũ curioso Iudeo Benjamin filho de Ionas, que ha menos de quatrocentos annos sahio de Nauarra, deo hũa volta a toda Asia, Africa, & Europa, para cõ os olhos ver o estado que tinhão os Iudeos espalhados pelo mundo; & em tudo o que reuolueo, não achou que possuissem principados, nẽ lugares hõrados, antes todos desterrados, tendeiros, bufarinheiros, cardadores, tintureiros, rendeiros."

<sup>78</sup> Francisco da Costa, fol. 9<sup>r</sup>.

<sup>79</sup> Moreira (1630), fol. 14<sup>r</sup>. Cf. Costa Mattos, *op. cit.*; fol. 29<sup>r</sup>.

<sup>80</sup> Mendes de Tavora, fol. 5<sup>r</sup>.

de Sequeira, evoking with true *saudade* Israel's remote history, lets himself fall into a sentimental tone, worthy of a pastoral novel: "... however, memories of happiness, a knowledge of past blessings, make one feel more keenly the anguish and woe of the present. One's suffering grows by comparison with the joy and glory of lost bliss."<sup>81</sup>

The trials and tribulations which the Jews have had to endure for the last sixteen hundred years in every country — the *via de experiencia* — should suffice to eradicate even the last vestiges of a belief in the Mosaic Law. But Jewish alienation (*desacordo*) — or resourcefulness — has always a retort ready, which the priests quickly explain away. Their captivity, they assert, is not intended as a punishment; rather it is to enable them to teach the nations among which they reside.<sup>82</sup> This claim is hardly worthy of serious consideration, since the Jews, unlike the Apostles, do not preach their faith openly. A semblance of truth, however, is not wanting in the contention that God often afflicts those whom He wishes to try so that He may later on heap His blessings upon them. Basing themselves on such incidents narrated in the Bible, some Jews hold that their present calamitous state is to be interpreted as temporal, but not as eternal chastisement.<sup>83</sup> This sophism can stand no further scrutiny. One can scarcely overlook that, while God may test certain individuals, He has never put on trial a nation as a whole. Besides, an examination of the Biblical episodes in question shows that their longest previous captivity lasted for seventy years; never before has reconciliation been put off for such a long time. The withholding of divine favors from the Jews for a period of centuries then confirms that they are being punished as obstinate sinners not as beloved sons.<sup>84</sup>

##### 5. BLINDNESS AS CAUSE OF HERESY

Divine retribution for the death of Christ, Francisco de Santo Thomás asserts, not only changed the temporal state of the Jews, it also brought about severe spiritual punishments. The most serious of these is Jewish blindness (*cegueyra*) which prevents them from understanding the true cause of their misfortunes.<sup>85</sup> A prefiguration of their benight-

<sup>81</sup> *Op. cit.* (1642), fol. A<sub>3</sub><sup>v</sup>.

<sup>82</sup> Telles, pp. 22–23.

<sup>83</sup> Francisco da Costa, fol. 15<sup>r-v</sup>, and Couto, fol. 9<sup>r</sup>.

<sup>84</sup> Couto, fol. 18<sup>r</sup>, and Mendes de Tavora, fol. 6<sup>r</sup>.

<sup>85</sup> Francisco de Santo Thomás, pp. 22–23. Orobio de Castro, *La observancia* . . . , p. 42, comments as follows on Jewish blindness: "Dezid Señor qual propheta cego los ojos, y ensurdeçio las orejas de toda la Asiria, la China, Tartaria Percia, Arabia,

edness is the veil of Moses; as Saint Paul has pointed out, the veil worn by modern Jews covers their heart as well as their eyes so that the rays of truth cannot reach them.<sup>86</sup> Although all the orators agree that blindness and deafness are the main obstacles to a spiritual cure of the Jews, they do not always see them as chastisement for their deicide.<sup>87</sup> We are reminded that Saint Augustine distinguished three kinds of Jewish *cegueyra* in accordance with its origin: it may derive from a spirit of rebellion, from greed, or from ignorance.<sup>88</sup>

But whatever the origin of this blindness, it has become a character trait of the Jew and is therefore a factor to be reckoned with. Many of the authors are under no illusions as to the ultimate outcome of their evangelical exertions. Quite often we are told right at the beginning of the sermons that an attempt to convert the Jews is not only an ungrateful task, but also one bordering on the impossible. An accumulation of images of frustration serves to bring into focus the futility of their endeavor. Francisco da Costa writes: "I fear, my lord, that to preach your Faith to these people will be like crying aloud in the wilderness; like writing in water without leaving a trace; like sowing in sand with no hope of harvest; like hammering an anvil to no avail: in short, it is as if one attempted with a human voice and a human arm to break through a diamond, wearing oneself out with but scant success, if any."<sup>89</sup> Ioanne Mendes de Tavora, addressing the Inquisitors in particular, questions whether one should not dispense altogether with the sermons so that Jewish stubbornness would not impair the prestige of the doctrine preached to them: "It is the doctrine of Galen that when a patient comes to a state where the physician despairs for his life, he ought not to administer the remedies which restored health to other sick people lest their reputation suffer. This disease [i.e. Judaism] Gentlemen, is mortal. It has lasted for more than sixteen hundred years. These people are paralytics, and today, in accordance with the pulse which we have taken, there is no longer any hope for their improvement. Let us, therefore, not give them the

Turquia, toda la America, La Africa, con tal innumerables [*sic*] Nações que no admitem al Masiah, ni su Lei, y estan avn en la antigüedad gentilica, y Paganismo, y la mayor parte del mundo en el Mahometismo Y aun de los Xptianos qual Prophecia los çego y engroso, para que la mayor parte sean ydolatras, Cismaticos, herejes. Veis aqui como no estan Israel çiegos por essa maldiçion, pues quasi todo el mundo no admite vuestra doctrina."

<sup>86</sup> The symbolism of the veil of Moses is an often debated topic. See Mendonça (1619), p. 33; Costa Soares, foll. A5<sup>v</sup>–A6<sup>r</sup>, and Moreira (1630), fol. 3<sup>v</sup>.

<sup>87</sup> Estevam de Sant'Anna, fol. 3<sup>v</sup>; Manoel da Encarnaçam, fol. 5<sup>v</sup>, and Alvares, p. 5.

<sup>88</sup> Rebello, foll. 2<sup>v</sup>–3<sup>r</sup>, and Vieyra, p. 10.

<sup>89</sup> *Op. cit.*; fol. 2<sup>r</sup>.

medicines that have cured others or they will lose their reputation for healing."<sup>90</sup> Other authors disclaim in advance any responsibility for their limited success by pointing out that they cannot be expected to succeed with mere arguments where Christ failed with his miracles.<sup>91</sup>

Such objections are purely academic, for the orators know only too well that "... the Holy Church does not stop shouting ...",<sup>92</sup> although the results may not meet the expectations. For our priests there is no doubt that only Christ himself can overcome Jewish obduracy and to him they turn in a dramatic gesture, imploring his indispensable assistance. Jesus is asked to turn his cross into a pulpit as a last recourse for saving those whom God once had called His sons: "Preach to them, Incarnate Wisdom, preach to them from the pulpit of your Cross, because only such a sermon will bear fruit in these your sons . . ."<sup>93</sup>

## II. ON JEWISH AND MARRANO RELIGION

It should be firmly established by now that neither "authorities" (testimonies from the Scriptures) nor "experience" (the sufferings of Israel) can induce the Jews to renounce the religion of their fathers. The excellence of a creed for which year after year so many inquisitorial victims sacrifice life, honor, and wealth deserves extended comment, and the fathers do not turn from the task of enlightening both the Catholic audience and the accused on the salient features of Judaism. The data presented — either outright falsifications or material arbitrarily separated from its context — illustrate the extravagance of the Jewish faith. This technique may aptly be termed "negative persuasion," for it is believed that an elucidation of Jewish "stupidity and delirium" (*dilírios & estultitias*), along with a careful

<sup>90</sup> *Op. cit.*; fol. 4<sup>r</sup>. Cf. Cesar, p. 3, and Sousa Carvalho, p. 19.

<sup>91</sup> Gomez, fol. 2<sup>v</sup>; Antonio Corrêa, *Trilogio Catholico* . . . (Lisboa, 1682), p. 1; Oliveyra (1691), p. 8, and Diogo da Annunciaçam Justiniano (1710), pp. 9-10.

<sup>92</sup> Mendes de Tavora, fol. 4<sup>v</sup>. In defense of this approach Manoel dos Anjos (1629), fol. 22<sup>r</sup>, refers to an anecdote about Ignatius de Loyola: "Aquelle grande santo, & Apostolico varaõ de nossos tempos Mestre Ignacio da sancta Cõpanhia de Iesu, prẽgava em todos os sermões & praticas contra judeus, & perguntado de hũ douto Religioso, como sempre pregava contra elles, trabalhando em vão, & endurecendo-se elles mais como o lodo com os rayos do sol, respondeo. Conuẽ padre, afrontando, desfauorecendo, & deshonorando aos judeus honrar a Christo de quẽ elles sam tam inimigos."

<sup>93</sup> Christovam de Almeida, p. 58. Sousa Carvalho, p. 24: "Assim o espero de vòs oh summa verdade! que dessa Cruz a ensinais de cadeira, como Mestre . . ." Cf. Francisco da Costa, fol. 2<sup>r</sup>.



exegesis of Biblical quotes, might create the desired change of heart.<sup>94</sup> To attain this aim the preachers must first discredit the rabbis who are deliberately responsible for the misbelief of their disciples. "I have found" — Bento de Santo Thomás writes — "that to set a blind man on his right road the first thing called for is to remove any obstacles from his path; and, accordingly, my main purpose is to make you see the falseness of your masters. Far from being your staff, they make you stumble, and, moreover, their doctrine is the snare which brings you down."<sup>95</sup> As for the Catholics, an exact knowledge of what this unfortunate people is compelled to believe as articles of faith should strengthen their filial affection for the Church.<sup>96</sup>

# I. THE TALMUD

Since the Old Testament is held in the highest esteem by both Jews and Christians, the source of all Jewish aberrations must be sought elsewhere. The Jews have no work comparable to the Gospel, and, consequently, one must turn to the writings of their "Doctors." Fortunately, these have been compiled in a book known as the Talmud,<sup>97</sup> a work on which our authors comment at length, though their knowledge of its content is limited. The priests' preference for the Talmud can be explained by the many opportunities it offers for ridicule. Nowhere else does Jewish ignorance seem to reveal itself more strikingly than in its teachings.

Extremely vague is the information which the fathers give on the origin, date of composition and nature of this work, "... a volume thicker than ten of our Bibles..."<sup>98</sup> The assertion that it constitutes a belated redaction of the Law orally transmitted by God to Moses is dismissed as a fable of the rabbis. The truth, according to Christovam de Santa Maria, is that, four hundred years after Christ, a mass conversion of Jews, convinced by Scriptural testimonies, began to take place. To arrest the movement, which threatened to become general, the rabbis came up with a new doctrine — embodied in the Talmud —

<sup>94</sup> Valerio de São Raymundo, p. 7.

<sup>95</sup> *Op. cit.*; pp. 1-2.

<sup>96</sup> Diogo da Annuniação Justiniano (1710), p. 28.

<sup>97</sup> Couto, fol. 7<sup>v</sup>. For a particularly venomous attack against the Talmud see Fr. Felix de Alamin, *Impugnacion contra el Talmud de los Judíos, Alcoran de Mahoma, y contra los Hereges* . . . *Dividese en cinco tratados: en el primero, se refutan las mentiras, fabulas, y blasfemias, que contiene dicho Talmud, ó Biblia de los Judios, y que es contra la Ley de Moyses, contra la Natural, y Divina* . . . (Madrid, 1727). [This work was unknown to Kayserling].

<sup>98</sup> Diogo da Annuniação Justiniano (1710), p. 28.

completely opposed to the text and spirit of the Bible.<sup>99</sup> It is true that not all the priests are sufficiently familiar with the work to have a clear idea of the distinction between the Palestinian and the Babylonian Talmud, but they all know that it is not the work of a single author.<sup>100</sup> On the whole, their remarks on the composition of the Talmud are ambiguous. Because of their devastating sarcasm Mendes de Tavora's comments deserve to be singled out: "This is the Talmud. Every day a few leaves were sown to the growing volume, as everybody scribbled on his few words."<sup>101</sup>

Our preachers entertain no doubts as to the validity of the Talmud's doctrine, which is held to mirror the moral stature of its rabbinical authors. The "Talmudic wolves" — to borrow a term from João de Barros<sup>102</sup> — are, like their disciples, ignorant, blind and bent on deceit. To further their aims they do not hesitate to alter the sacred texts, a task facilitated by the particularities of Hebrew orthography.<sup>103</sup> Small wonder then that their Talmud should be a "... tome full of falsehood . . .," an instrument of perdition.<sup>104</sup> Its laws authorize the Jews to lie, to swindle, to steal, and even to kill.<sup>105</sup> For good measure it is added that homosexuality is condoned;<sup>106</sup> this allegation is particularly grave for a society which inevitably chastised sexual deviation with the death penalty. No sufficiently severe invectives can be found for a code that sanctions such crimes. Father Francisco Veyra believes that the only suitable designation for the Talmud is to call it the Jewish Koran, that is to say the embodiment of heretical perfidy.<sup>107</sup>

<sup>99</sup> Christovam de Santa Maria, *Sermão* . . . (Coimbra, 1706), p. 25.

<sup>100</sup> This distinction is clearly drawn by Mendes de Tavora, fol. 20<sup>r-v</sup>. Deficient as the priests' knowledge of Judaism is, one does not come upon references to *Rabbinus Taimud*. (For this allusion, attributed to the Capuchin Friar Henricus Seynensis, see Arthur Lukyn Williams, *Talmudic Judaism and Christianity* [London, 1933], p. 30.)

<sup>101</sup> Mendes de Tavora, fol. 21<sup>r</sup>.

<sup>102</sup> *Diálogo evangélico sobre os artigos da Fé contra o Talmud dos Judeus*, ed. I. S. Révah (Lisboa, 1950), p. 1.

<sup>103</sup> Telles, p. 28. For a refutation see Yshac Cardoso, "Octava Calunia de los Hebreos. Corruptores de los libros Sagrados" in *Las excelencias de los Hebreos* (Amsterdam, 1679), pp. 390-399.

<sup>104</sup> Mendes de Tavora, fol. 22<sup>v</sup>.

<sup>105</sup> Estevam de Sant'Anna, fol. 14<sup>r-v</sup>, and Manoel Pereyra, p. 16.

<sup>106</sup> Valerio de São Raymundo, pp. 19-20. The belief that the Jews indulged in homosexuality explains the following allusion in a poem by the Brazilian satirist Gregorio de Mattos (1633-1696), *Obras* (Rio de Janeiro, 1930), IV, 94: "A vós, fanchono beato, / Sodomita com biôco, / E finíssimo Rabi, / Sem nascer de cristão novo . . ."

<sup>107</sup> Veyra, pp. 23-24.

The audacity of the Talmudists who cynically endorse every conceivable iniquity is not deterred by God's majesty which they persistently profane in their writings.<sup>108</sup> Such is their delirium that they speak of God as if He were their equal. This charge is backed up by allusions to the anthropomorphic images of the Talmud, a pet topic of our speakers and the source of many humorous asides.<sup>109</sup> For the priests it is the height of both folly and sacrilege to imagine that God has a rigid schedule for His daily activities and references in the Talmud to His labors are glossed at length.<sup>110</sup> The tale which portrays God as spending the first three hours of every day with the study of the Law stirs Father José do Espirito Santo to write: "To deny God's wisdom they say that God studies . . . from their Talmud, and thereby they depict God as having such a poor memory that He must continue to study, although He daily pores over this book. They make of Him a disciple of their masters; they make us fellow students of God who are in the same class and study in the same primer. Can anybody conceive of a more insolent foolishness?"<sup>111</sup> That the Lord, before creating the earth, should have "practiced" intensively by making and destroying several other worlds, evokes, as far as Couto is concerned, the image of a child playing in the sand rather than divine omnipotence.<sup>112</sup> Grotesque is for them also the concept of a God who, unable to free His chosen people from captivity, dishevels His hair and beard, whenever the Jews praise Him in their synagogues. Accursio de São Pedro wryly adds: "Do you think, Jews, that you worship a good God? A God with His hair and beard plucked off because of His anguish and grief . . . Abjure such a God. Probably, He has no longer any more hair to pull out, if you continue to frequent the Synagogue. Has anyone heard anywhere in the world, even among the most barbarous nations, such nonsense?"<sup>113</sup> Particularly strong objections are voiced to anything which might be construed as a restriction of God's unlimited power, and this attitude accounts for

<sup>108</sup> Ceita, fol. 15<sup>r</sup>.

<sup>109</sup> Valerio de São Raymundo, p. 20.

<sup>110</sup> Manoel dos Anjos (1629), fol. 13<sup>v</sup>, and Christovam de Almeida, pp. 46-47. On the anthropomorphisms of the Talmud see Zebi Hirsch Chajes, *The student's guide through the Talmud*, tr. Jacob Schachter (London, 1952), pp. 201-207. For the anthropomorphisms of the Bible see Albert Gelin, *Les idées maîtresses de l'Ancien Testament* (Paris, 1948), pp. 20-21, and Ludwig Köhler, *Theologie des Alten Testaments* (3. ed., Tübingen, 1953), pp. 4-6.

<sup>111</sup> *Op. cit.*; p. 8.

<sup>112</sup> Couto, fol. 7<sup>v</sup>: "... a occupação de Deos antes de criar este mundo, era fazer, & desfazer mundos, como minino a fornhos de area em tempo de chuua."

<sup>113</sup> *Op. cit.*; fol. 6<sup>v</sup>. Cf. Diogo da Annuniação Justiniano (1710), pp. 28-29.

the comments on the Talmudic fable of Rabbi Eleazar. God promised this learned man, when asked to remedy his financial plight, to create a new world so that the rabbi could be born under a different star. One might then conclude that “. . . God, in order to make a man rich, has need of the influence of Heaven and celestial constellations.”<sup>114</sup> For the priests this smacks of paganism, since it is not expressly stated that the “stars” are but metaphors of divine providence.

Such a presentation of the Talmudic concept of God leaves little room for further surprise; otherwise they would have been stunned by Jewish ideas about eternal bliss. The beatitude for which so many Marranos risk their life, they are told, consists merely of a few tiny pieces of salted leviathan: “. . . the flesh of a serpent, and even that salted”—exclaims Estevam de Sant’Anna—“I call this a glory in brine . . .”<sup>115</sup> Father José do Espirito Santo also takes advantage of this belief to deploy his satirical vein in a carefully elaborated contrast between the glory promised by the Talmudists and the reality their disciples have to face in Portugal: “Since there are so many of you who have to eat from one fish, everyone will receive but a scant ration. Think now if your glory, and even fresher than you expect it, cannot be bought for a few cents in a tavern. Well, I pledge you my word and assure you, on behalf of God, that if you continue with your Judaism, you are not going to obtain even this bliss of a rotten fish. You will be the fish, because with this bait the devil is catching you for his kitchen. Here you will be scaled of your possessions and life, here you will be pickled and brined; there you will be boiled and fried in eternal fires.”<sup>116</sup>

For the final deprecation of the Talmud only one other datum has to be added. That God should have inspired such an evil book is inconceivable; far more sound, in view of what has been revealed about the work, is the assumption that the devil himself concocted its doctrine. This contention is borne out by the Talmudic story of the demon Benthemalion whose cooperation enabled Rabbi Joseph and Rabbi Simeon to obtain the revocation of a decree by Tiberius, prohibiting the teaching and observance of the Mosaic Law. The demon’s assistance could not be dispensed with, yet Rabbi Simeon, unable to hold back the tears, remarked to his companion: “Lo! To Hagar, the slave of our father Abraham, there appeared an angel to console her when she trod desperate and afflicted through the desert. But what we have seen is the devil. Look, my friend, to what

<sup>114</sup> Estevam de Sant’Anna, fol. 8<sup>r</sup>.

<sup>115</sup> *Op. cit.*; fol. 22<sup>v</sup>.

<sup>116</sup> *Op. cit.*; p. 7.

miserable state we have come. Nevertheless, we must go on. Let the miracle take place, even if the devil performs it."<sup>117</sup>

Rightly then no trust can be placed in those who drink from the "... black and turbulent waters..."<sup>118</sup> of the Talmud, and the aims and methods of later rabbis, as could be expected, are identical with those of the Talmudists. Often selected for special consideration is Rabbi Solomon, who, for our authors, is the archvillain among post-Talmudic scholars. The prestige which he enjoyed among the Jews ("... he was for you the Solomon among your Rabbis...") accentuates his responsibility for the eternal condemnation of his disciples and followers ("... it was he who has carried the largest number of Jews to hell...").<sup>119</sup> The "... renowned corruptor of sacred texts..."<sup>120</sup> baffled, like his masters, by perfectly clear Scriptural references, modified at will the pertinent passages so that they would corroborate his heretical doctrines.<sup>121</sup> Rabbi Solomon's best-known forgery changed substantially the text of an important prophecy of Isaiah (9.6). There he replaced the verb form *vehichre* (vocabitur) by *vehichra* (vocavit) so that he would not have to confess the Messiahship of Christ.<sup>122</sup> That he should have to stoop to such devices, lays bare the untenableness of the creed which Rabbi Solomon upheld.

## 2. THE "RELIGION" OF THE MARRANOS<sup>123</sup>

### a) *The Family as the Mainstay of Judaism*

As a rule the Jews in the past have shown great lack of circumspection by accepting the religious leadership of men whose understanding

<sup>117</sup> Antonio das Chagas, p. 30. Christovam de Santa Maria, p. 26, repeats almost textually the whole story.

<sup>118</sup> Gregorio Taveira, *Sermão* . . . (Lisboa, 1619), fol. 20<sup>v</sup>.

<sup>119</sup> Silva, p. 11. Diogo da Annuniação Justiniano (1705), p. 16, copies textually from Silva's sermon.

<sup>120</sup> Diogo da Annuniação Justiniano (1705), p. 21. For similar criticism of this rabbinic scholar see Barros, *Diálogo* . . ., p. 51; Este, *Diálogo* . . ., fol. 15<sup>r-v</sup>, and Ximenes de Aragão, *op. cit.*; fol. 94<sup>r</sup>.

<sup>121</sup> Joseph do Nascimento, p. 22.

<sup>122</sup> Manoel Fagundes, *Sermão* . . . (Evora, 1626), fol. 2<sup>r</sup>; Bento de Santo Thomás, pp. 12-13, and Sousa Carvahlo, pp. 17-18. See Neto's defense of Rabbi Solomon, *op. cit.*; p. 17: "... los Judios no necessitan de semejantes Artes, ni engaños, para apoyar su Creencia, que siendo la misma Palabra de Dios, ella por si, se mantiene, y sustenta; veanse todos los exemplares Hebraicos, antiguos, y modernos, en toda la parte del Mundo, y se hallará que no hay nada viciado, y que todos acuerdan, y concordan en la verdad . . ."

<sup>123</sup> See Cecil Roth, "The Religion of the Marranos," *The Jewish Quarterly Review*,



of the Holy Books was so deficient. Such want of discernment is only surpassed by their modern descendants, the Portuguese Crypto-Jews. An array of learned and trustworthy men — princes of the Church, professors of theology and distinguished preachers — who inspire with the shining example of their Christian conduct, are ready and eager to instruct the Neo-Christians in the mysteries of the Faith.<sup>124</sup> But it is not to them that the Marranos turn in search for guidance, and this irreverence aggravates their guilt. The Judaizers prefer to heed the admonitions of laymen, especially of members of their own family, although the latter have not the slightest knowledge of divine letters.<sup>125</sup>

That strong family ties accounted for the survival of traces of Judaism among the neophytes, the preachers fully understood.<sup>126</sup> Often they take issue with the spurious argument that the accused, for tradition's sake, had to continue practicing the ceremonies held dear by their parents. For the rebuttal of this belief, the priests rely on stories from the Bible and on "common sense." As an example from the Old Testament, worthy of imitation, they point to Abraham who abandoned paganism, the religion of his fathers, for the Law of God.<sup>127</sup> Conversely, if established custom were given precedence over truth, then the worshippers of the Golden Calf would have been entirely justified in clinging to their idolatry.<sup>128</sup> Of course, filial affection and obedience, they maintained, was not to be extended to matters pertaining to the soul, for there is no connection whatever between

XXII (1931), 1-33, and "Immanuel Aboab's Proselytization of the Marranos," *The Jewish Quarterly Review*, XXIII (1932), 121-162.

For bibliography on the Marranos see these two articles and Cecil Roth, *A History of the Marranos* (Philadelphia, 1932). In addition, the following studies are worthy of mention: Hans Klee, "Bei den Marranen in Portugal," in *Mélanges dédiés au Dr. B. A. Tschlenoff* . . . (Genève, 1947), pp. 125-142; Antonio Domínguez Ortiz, "Los Cristianos Nuevos. Notas para el estudio de una clase social," *Boletín de la Universidad de Granada*, XXI (1949), 249-297; J. A. Van Praag, "Almas en litigio," *Clavileño*, I (1950), 14-26, and Nicolás López Martínez, *Los judaizantes castellanos y la Inquisición en tiempo de Isabel la Católica* (Burgos, 1954).

<sup>124</sup> Tomás de São Cyrillo, fol. 9<sup>r-v</sup>.

<sup>125</sup> Valerio de São Raymundo, p. 22, and Telles, p. 26. Alvares, pp. 10-11, declares that the Jews could be forgiven for their heresies, if they were living in a foreign country; "... porem, q̃ Hebreos creados no gremio da Igreja Catholica, em Portugal, entre tantos Sacerdotes... afastem os olhos do Senhor... voltem as costas ao templo, a Igreja Romana, & faltem aa Fee de todo... Essa he maior abominação."

<sup>126</sup> Rebello, fol. 14<sup>r-v</sup>; Valerio de São Raymundo, p. 17, and José do Espirito Santo, pp. 9-10.

<sup>127</sup> Bento de Santo Thomás, p. 8.

<sup>128</sup> Francisco de Santa María, p. 34.

heredity and salvation. It stands to reason that no one would plug his ears because his father was deaf, nor would anybody keep his eyes always shut because his father happened to be blind.<sup>129</sup> Similarly, nobody should say: "... my father died as a Jew, I wish to die as a Jew like him . . .," since that is another way of affirming: "... my father went to hell, I wish to go to hell with him."<sup>130</sup>

Men, if we were to believe the speakers, did not excel as proselytizers among the Marranos. The successful propagation of Judaism, inquisitorial vigilance notwithstanding, is laid primarily to skillful indoctrination by mothers and grandmothers. As priests and as men, the orators resent the trust placed in such authorities against whom they launch many barbs.<sup>131</sup> Typical is a passage in Ferreyra's sermon where he derides the "... few women, nearly a hundred years old, who, because of their decrepitude, can, perhaps, no longer sew or spin. (These are the only arts they have studied and which they ought to teach you). As such they teach you unworthy things and ceremonies so ridiculous as to provoke laughter did they not arouse our compassion. . . ."<sup>132</sup>

The preachers, to vilify further the Judaizers, stress that masters and disciples alike are engaged in mechanical arts (*ofícios mecânicos*) and therefore are incapable of handling doctrinal questions.<sup>133</sup> This view shows the well-known prejudice of Iberian society against those who work at menial tasks, strengthened here by the disdain of the cleric for the layman. Since a similarly warped judgment shades their thinking with regard to small merchants,<sup>134</sup> it follows that anybody who accepts a creed expounded by a shoemaker from Leria or a spice dealer from Castelbranco,<sup>135</sup> is wilfully avoiding the path of truth.

<sup>129</sup> Alvares, p. 14.

<sup>130</sup> Manoel Fagundes, *Sermam* . . . (Coimbra, 1625), p. 16.

<sup>131</sup> Mendonça (1619), p. 30: "Ouuireis vos muytas velhas dogmatistas, que não sabem ler, nê escreuer, nem nunqua tomarão na mão a biblia. Estas ouuireis vos contar patranhas, mas prophetas? . . .;" Moreira (1630), fol. 5<sup>v</sup>: "... as vossas escolas são os lares das chumines, os mestres são duas velhas tontas, que às escondidas vos acabão de meter na cabeça as cegueiras . . .;" and Antonio Corrêa, pp. 3-4: "... deixay os sacrificios ridiculos, que vos ensinarão, & sò volos podiaõ ensinar as tontas de vossas Avòs . . ."

<sup>132</sup> *Op. cit.*; p. 17.

<sup>133</sup> Silva, p. 30.

<sup>134</sup> Antonio Corrêa, p. 10: "... o vosso trato todo para ou em serdes çurradores, trapeyros, ou rendeyros . . ."

<sup>135</sup> Mendes de Tavora, fol. 22<sup>r</sup>.

b) *Ceremonies and Prayers*

The ceremonies, rites and prayers of the Marranos reflect the quality of the instruction imparted to them. The Crypto-Jews' notions of the Mosaic Law are so scanty that even if that faith still retained its validity, they would, as the priests confidently assert, forfeit salvation by their very practices.<sup>136</sup> Their treacherous masters withheld from them the fact that Jewish ceremonies were meaningful only in Palestine, and that after the destruction of the Temple by Titus, the observances formerly prescribed had become an affront to God's will.<sup>137</sup> This is the core of the problem, and the orators set store by this argument. They often point to "sacrifices" offered outside of Jerusalem as evidence of Jewish simplicity. Domingos Barata tells of a dispute with a rabbi residing in Holland whom he tried to convince that the celebration of Mosaic rites in the Low Lands countered God's prohibition. The rabbi resolved this "dilemma" by denying that such an interdiction appeared anywhere in the Scriptures.<sup>138</sup>

The main target of our priests, however, is not the superficial knowledge which the accused have of Judaism, though it is certainly amusing that they should know only four or five out of a total of 613 precepts.<sup>139</sup> Above all, the speakers intend to demonstrate how childish, foolish and unworthy of a religion all their observances are.<sup>140</sup> Once more the fathers brandish ridicule as their most formidable weapon in the assault against a stubborn enemy. Accordingly, no systematic exposition of Jewish rites and celebrations can be expected. The amount of attention they are given depends entirely upon the extent to which they are likely to degrade the titular Christians in the eyes of the population.

The most frequently discussed "Jewish" ceremony is termed *varrer a casa as auessas* ("to sweep the house the wrong way"), and we are told that almost all the accused had confessed to this particular offense.<sup>141</sup> In the sermons available to me no explanation of

<sup>136</sup> Alvaro da Costa, fol. 7<sup>r-v</sup>.

<sup>137</sup> Fernández Prata, tr., *Carta* . . . , p. 6.

<sup>138</sup> *Op. cit.*; p. 65. For evidence of the pride which the Portuguese Jews residing in foreign countries took in their rites see Daniel Mendes Sola Nobre, *Sermão em que mostra as grandes Excelencias, que logra o supremo preceito da circuncisão* . . . (Amsterdam, 5483). [This work was unknown to Kayserling.]

<sup>139</sup> Rebello, fol. 14<sup>v</sup>.

<sup>140</sup> Moreira (1645), p. 14.

<sup>141</sup> Valerio de São Raymundo, p. 24: "Raro he o q̃ de vòs sahe nestes Autos que não varra a caza às aueças: saõ os vossos liuros vaçouras, & assi não vos empregais em saber mais que varrer . . ."

this strange practice is given. The ingenious polygrapher Dom Francisco Manoel de Melo offers a valuable clue in his *Apólogos dialogaes* where he alludes in passing to the fact that "... the Jews sweep toward the inside of the house so that they shall not, as they say, throw out their possessions..."<sup>142</sup> This casual reference in a purely literary work indicates that the ceremony was widely known. Whether the practice originated with the Marranos or found favor with potential Judaizers because the Inquisition was so mindful of it, I am unable to say. The very lightness of the offense accounts perhaps for its prominent place in the records of the Holy Office, since many an accused may have preferred to admit heterodoxy in his housekeeping methods than undergo prolonged tortures.

By exaggerating the significance of this practice beyond all proportions the fathers enhance its already considerable humorous possibilities. With tongue in cheek Rebello states that for the Jews this is "... the heart of their salvation..."<sup>143</sup> Others solemnly assure the accused that the way one sweeps the house does not concern God at all.<sup>144</sup> Father Pedro Correa, bringing into full play his rhetoric, facetiously admonishes those who believe that the rigid observance of this rite can be the road to wealth: "What wealth can come into a house because one sweeps in the reverse direction? Only the inverse of wealth — straw, dust and filth."<sup>145</sup>

Equally interesting are the data on ceremonies for the dead, many of which remind the worthy fathers of pagan customs. Pearls were placed in the mouth of the dead who were also provided with money for their last journey.<sup>146</sup> Whenever possible they were not buried in

<sup>142</sup> (Lisboa, 1721), p. 273.

<sup>143</sup> *Op. cit.*; fol. 14<sup>v</sup>.

<sup>144</sup> Bento de Sequeira (1642), fol. D<sup>r-v</sup>.

<sup>145</sup> Pedro Corrêa, fol. 2<sup>v</sup>. The word play of the original reads: "Que riquezas podem entrar em hũa casa, por se varrer *às auessas*, que não sejam *o auesso* das riquezas? . . ."

Ecclesiastic authors realized that the Judaizers were most anxious to learn as much as possible about the Law of their fathers. Consequently, Fr. Pantaleão de Aveiro, *Itinerario da Terra Sancta* . . ., ed. António Baião (Coimbra, 1927 — the first edition was published in Lisbon, 1593), p. 17, refrains from giving a detailed description of a Jewish circumcision: "Não escrevo aqui o modo que se teve naquella circuncisaõ, nem as ceremonias, que nella usáraõ, assi por serem já reprovadas, & repudiadas do Senhor Deos, depois que por sua Divina misericordia teve por bem darnos a ley de graça . . . como *por não dar motivo a alguns judeos do nosso tempo, a que com curiosidade, ou sua perfida obstinação, queirão saber, o que lhe não pertence* . . ."

<sup>146</sup> Antonio Corrêa, p. 10. On Marrano practices see Mendes dos Remédios, "Costumes judaicos descritos por um converso," *Biblos*, III (1927), 18-29, and Manuel Tejado Fernández, "Un foco de judaísmo en Cartagena de Indias durante el seiscientos," *Bulletin Hispanique*, LII (1950), 55-72.

holy ground; for the repose of the deceased's soul a bed was prepared in his home. We are also told that the Jews, to vent their grief during mourning, placed themselves behind the doors of their houses.<sup>147</sup>

This is by no means a complete list of superstitions. The patriarchs Abraham, Isaac and Jacob were honored by casting into the fire "... three rounded balls of flour..."<sup>148</sup> Flour was also deposited behind the doors,<sup>149</sup> and there were precepts even for such trifling matters as to when one ought to pour out the water used for household chores.<sup>150</sup>

Casual allusions to other religious practices abound in the sermons, but they lack the interest of these we have just seen. Dietary laws were the best-known of the Mosaic precepts and Iberian writers, both clerical and secular, often glossed and derided them. The Jews' abhorrence for pork, in particular, had become a conventional topic of satire. A personal note, worthy of attention, is one which Antonio Corrêa inserts into this trite matter. He refuses to believe that the Jews really abstain from pork, hare or the skin of fish, for, if this were really the case, these would be handed out free in the streets.<sup>151</sup> Whether this is a hint at the large number of Judaizers — magnified by the bewildered imagination of the anti-Semitic clergy — or merely reflects the belief that Christian merchants would gladly cooperate in testing the religious sincerity of their customers can only be guessed.

The conditions under which the Marranos had to live made furtiveness the first rule of their religious activities. The observance of festivals, especially, was beset with grave dangers, and thus many of them were soon neglected or forgotten. Among the few exceptions were the Sabbath and Passover celebrations. To solemnize the traditional day of rest, the Judaizers wore clean shirts, put new wicks into their candles, polished the candlesticks,<sup>152</sup> and did many things

<sup>147</sup> Barata, p. 65.

<sup>148</sup> Pedro Corrêa, foll. 3<sup>v</sup>-4<sup>r</sup>.

<sup>149</sup> Diogo da Annunciaçam Justiniano (1710), p. 12.

<sup>150</sup> Gomez, fol. 7<sup>v</sup>.

<sup>151</sup> Antonio Corrêa, p. 10. Este, *Didlogo* . . . , fol. 67<sup>v</sup>, offers some interesting comments on the dietary laws: "E tratando do nome do porco, que no Hebreo se chama Chazir, deriuado do verbo, Chazar, que quer dizer, cousa que ha de tornar, glosaraõ os Rabbinos assi: Porque se chama Chazir o porco? porque auia de tornar a concederse ao pouo de Israel." And, elsewhere, fol. 85<sup>v</sup>, he writes: "... tambem guardão ordens, ou superstiçoens, pondo o cutello na garganta, & bulindo para cima, & para baixo, & se mattassem o animal leuando o cutello para cima, sem tornar para baixo, fica a carne delle immunda . . . Cousas que nunca foram, nem de Deos, nem de Moyses mandadas. Mas verdadeiramente todas sam superstiçoens . . ."

<sup>152</sup> Coutinho, fol. 11<sup>r</sup>, and Antonio das Chagas, p. 33.



"... which seem more like the ravings of someone losing his mind than the observances of any Law."<sup>153</sup> As for Passover, some of its traditional usages were carefully preserved among the Crypto-Jews, and the priests correctly single out as "... old customs of the Old Law (*velhices da lei velha*) ..." unleavened bread and bitter herbs.<sup>154</sup> With horror João de Ceita reports that the Marranos of Coimbra, gathered under the leadership of a high priest, killed a lamb in observance of this festival.<sup>155</sup>

While allowance must be made for distortions and exaggerations by the Inquisitors, there can be no doubt that the *Conversos* had at best a negligible knowledge of the rites they were striving to preserve. The same holds true for their prayers, since the destruction of Hebrew texts and the progressive weakening of the oral tradition had deprived them of a proper guide. Compulsory attendance at Church under the watchful eyes of inquisitorial agents and a distrustful population did not leave room for more than a slight and secretive deviation from accepted practices. Jewish malice is credited with having adapted Christian prayers in such a way that they often circumvented detection. The Pater Noster and the Ave Maria became supplications to Moses simply by suppression of certain formulas of the litany such as *Amen Jesu*; similarly, the psalms of David were de-christianized by the omission of the *Gloria Patri*.<sup>156</sup> The same technique was used for Catholic fasts which were dedicated to the memory of Queen Esther.<sup>157</sup> This is no longer a matter of laughter, and drollery yields to the customary barrage of taunts: "I confess that I cannot understand such brutality and delirium. The Law says that Moses is only a man, but you, in order to observe this Law, affirm that Moses is your God. The Pater Noster and the Ave Maria are prayers which the Law of Grace teaches us, and you, in supposed compliance with the Old Law, direct them to Moses. What mixtures are those that you are making?"<sup>158</sup>

### 3. NEITHER CHRISTIANS NOR JEWS

This last question, raised by Valerio de São Raymundo, puzzled the priests in contact with Neo-Christians who had strayed from the fold of the Church. By way of oversimplification and as a means of arousing

<sup>153</sup> Luis de Mello, *Sermoens* . . . (Lisboa, 1637), foll. 10<sup>v</sup>-11<sup>r</sup>.

<sup>154</sup> Pedro Corrêa, fol. 4<sup>r</sup>.

<sup>155</sup> Ceita, foll. 13<sup>v</sup>-14<sup>r</sup>.

<sup>156</sup> Pedro Corrêa, fol. 8<sup>v</sup>; Manoel dos Anjos (1629), fol. 5<sup>r</sup>; Accursio de São Pedro, fol. 6<sup>r-v</sup>, and Antonio das Chagas, pp. 30-31.

<sup>157</sup> Mello, fol. 10<sup>v</sup>.

<sup>158</sup> Valerio de São Raymundo, p. 24.

popular antagonism, one could treat the accused as if they were truly observant Jews, but there was no denying the fact that these people had been baptized and had for years taken part in all Catholic rites, ceremonies and festivities. That they clung, notwithstanding a display of Christian piety and zeal, to whatever vestiges of Judaism their families had preserved, caused the fathers genuine concern.<sup>159</sup> The rabid anti-Semites among them quickly dismissed the Christianity of the converts as a smoke screen behind which they could sully and mock with safety the most sacred symbols of the Faith.<sup>160</sup> Some more conscientious fathers strove to determine the doctrinal misconceptions which led at least a few neophytes to accept a religious dualism. They found that many Portuguese of Hebrew extraction considered it permissible to adhere at the same time to two different creeds<sup>161</sup> and thus fell an easy prey to the "... hissing of the venomous serpent of Jewish perfidy..."<sup>162</sup> The immediate goal of the speakers is to convince the largest possible number of the accused that one cannot be a Jew in one's heart and a Christian with one's mouth.<sup>163</sup> True enough, a purely external observance of Catholicism might in a few cases afford protection against temporal dangers, but the spiritual risks remain undiminished, since salvation itself is at stake.<sup>164</sup> The converts are reminded, time and again, of the illustrious example of their forefathers, the Maccabees, who chose martyrdom rather than feign respect for idols in whom they could not believe.<sup>165</sup>

Since a mere evocation of the glorious past will hardly induce the converts to renounce their contemptible heresy, the fathers have

<sup>159</sup> Ceita, fol. 4<sup>v</sup>, and Francisco de Torres, *Sermão* . . . (Coimbra, 1720), pp. 21–22.

<sup>160</sup> Ambrosio de Jesu, fol. 9<sup>r</sup>: "... muitos de vos que por meus peccados chegaes a tomar Ordens de Missa, o crucificaes com grande odio em vestes sacerdotaes . . .;" Leitão, p. 9: "... nam entraõ nas Igrejas, & nos Têplos mais que a darem figas a suas Imagens sacratissimas, a profanarem sua santa ley . . .;" cf. also Couto, fol. 17<sup>r</sup>, and Antonio das Chagas, p. 5.

<sup>161</sup> Alvares, p. 11.

<sup>162</sup> Ximenes de Aragão, *op. cit.*; fol. 102<sup>v</sup>.

<sup>163</sup> This argument is stressed in all the sermons. See, for example, Ceita, fol. 16<sup>r</sup>; Alvaro da Costa, fol. 20<sup>r</sup>; Antonio das Chagas, p. 11; Valerio de São Raymundo, p. 23, and Torres, p. 7.

<sup>164</sup> The fathers emphasize that the Jews as businessmen can hardly afford to err in the "... negocio de todos os negocios, que he a salvação . . . (Fagundes [1626], fol. 11<sup>r</sup>)."

<sup>165</sup> This is a standard argument of the priests. See, for example, Mendonça (1616), pp. 25–26; Fagundes (1626), fol. 11<sup>r</sup>; Ayres de Almeida, pp. 9–10, and Christovam de Santa Maria, p. 18. Imanuel Aboab, *Nomologia o discursos legales* . . . (n. p., 5389), p. 18, admits that there are circumstances under which a professing Jew is justified in feigning respect for another religion.

recourse to a series of striking comparisons in order to emphasize their abhorrence of a divided religious allegiance. The Neo-Christian apostates are likened to men of two tongues each of which, according to the circumstances, eulogizes a different creed.<sup>166</sup> They are compared with statues — which Moses forbade to their fathers — because they too are “. . . pure deceit . . . men on the outside [devout Catholics], and stone on the inside [obstinate Judaizers at heart].<sup>167</sup> And even a bird of such mythological dignity as the swan is degraded to a symbol of Jewish duplicity: “Among the birds which God formerly neither wanted nor tolerated in his sacrifices was the swan . . . Do you know why? Because the swan moves in two elements, earth and water; half here, half there; now meat, now fish; once flying, then swimming . . . Oh, Jewish people, you also move in two elements! . . . Behold them here, see them there . . . They are limping on each foot. On the outside, they move in the Law of Christ; but within they move in the Law of Moses. Christians by mouth, Jews at heart. In appearance a white swan, but inside, a black crow.”<sup>168</sup> Characterizing the Marranos as chimeras, Father Miguel de Bulhoens states bluntly that the Neo-Christians are in reality men without a Law and without a God, an opinion shared by a great many clergymen of the time.<sup>169</sup> It follows that the accused are either idolaters or, even worse, atheists.<sup>170</sup> This is the most serious indictment of Judaism: it is a doctrine which, by teaching ceremonies and rites rejected by the Creator, ultimately leads to a denial of God. For a nation which traced its very existence to the direct intervention of Christ on the battlefield of Ourique, this “abominable error” by itself would have amply justified the most stringent measures of repression.

### III. THE JUDENSPIEGEL

#### I. PERVERSENESS AND INFAMY

The deliberate misbelief of the *cristãos-novos* rightly receives full attention as the main theme of the fathers' discourses. But the dilucidation of blindness and obduracy, proof against all arguments and

<sup>166</sup> Miguel de Bulhoens, *Sermaõ* . . . (Lisboa, 1750), p. 20.

<sup>167</sup> Mendonça (1616), p. 19.

<sup>168</sup> Mendonça (1616), pp. 20–21. Cf. Alvaro da Costa, fol. 21<sup>r-v</sup>.

<sup>169</sup> Bulhoens, p. 16.

<sup>170</sup> Manoel dos Anjos (1629), fol. 24<sup>r</sup>: “Pois q̃ credes? torcidas vam, torcidas ṽe, em fim soes atheistas . . .;” and Bulhoens, p. 13: “Receber os Sacramentos da Igreja, e praticar os vossos na Sinagoga! Isto nem he ser Christão, nem Judeo . . . Pois que he? He ser fantasmas da religião, quimêras da fé, Atheistas de todas as leys . . .”

testimonies, by no means exhausts the Jewish national traits which come under discussion. The speakers endeavor to cast full light on the Jew as an individual and as a social entity, and the qualities which they reveal in doing so are precisely those which one would associate with the assassins of God the Son. In an age in which the sincerity of one's religious devotion was the primary criterion for judging a person's worth, it was quite easy to establish that atheists, such as the Judaizers, were the scum of the earth.

The Jews' passionate and unjustified hatred of Christ is the clue to their social conduct.<sup>171</sup> It has created in them a wicked disposition,<sup>172</sup> reflected not only in their enmity toward the Church,<sup>173</sup> the mistreatment of the Host when most likely to go unnoticed<sup>174</sup> and in ritual murders;<sup>175</sup> but it also expresses itself in a fierce animosity toward all Old Christians.<sup>176</sup> As ruthless enemies of the human species,<sup>177</sup> they have substituted a new tenet for the Christian axiom of neighborly love: wrong the Catholics whenever you can.<sup>178</sup> That there is no warrant for their dislike of pure-blooded Christians does not diminish its intensity. The Crypto-Jews spit at the shadow of Catholics,<sup>179</sup> and it was held that none of the latter ever passed away whose death they had not fervently desired.<sup>180</sup> In their prayers they ask God to

<sup>171</sup> Ambrosio de Jesu, fol. 7<sup>v</sup>; Antonio da Ressurreyçam, *Sermam* . . . (Coimbra, 1629), pp. 9–10; Telles, pp. 26–27, and Diogo da Annunciaçam Justiniano (1710), p. 3.

On the general subject see Cecil Roth, "The mediaeval conception of the Jew: a new interpretation" in *Essays and studies in memory of Linda R. Miller* (New York, 1938), pp. 171–190; Joshua Trachtenberg, *The devil and the Jews. The mediaeval conception of the Jew and its relation to modern antisemitism* (New Haven, 1943), and Joseph Reider, "Jews in medieval art" in *Essays on antisemitism*, (2nd. ed., New York, 1946), pp. 93–102.

For the treatment of the Jew in Iberian letters see Mendes dos Remédios, "Os judeus portugueses através dalguns documentos literários," *Biblos*, III (1927), 237–247; Miguel Herrero-García, *Ideas de los españoles del siglo XVII* (Madrid, n. d.), pp. 617–655; Antonio Portnoy, *Los judíos en la literatura española medieval* (Buenos Aires, 1942), and Seymour Resnick, "The Jew as portrayed in Early Spanish Literature," *Hispania*, XXXIV (1951), 54–58.

<sup>172</sup> Alvaro da Costa, fol. 8<sup>r</sup>. For similar Iberian bias in the treatment of other religions see Ludwig Pfandl, "Das spanische Lutherbild des 16. Jahrhunderts," *Historisches Jahrbuch*, L (1930), 464–497, and LI (1931), 47–85 and 485–537.

<sup>173</sup> Ceita, fol. 6<sup>r</sup>.

<sup>174</sup> Estevam de Sant'Anna, fol. 21<sup>r</sup>, and Manoel dos Anjos (1629), fol. 17<sup>r</sup>.

<sup>175</sup> Estevam de Sant'Anna, fol. 12<sup>r</sup>.

<sup>176</sup> Francisco de Santa Maria, p. 19, and Castelbranco, p. 32.

<sup>177</sup> Coutinho, fol. 8<sup>v</sup>.

<sup>178</sup> Antonio Corrêa, pp. 13–14.

<sup>179</sup> Valerio de São Raymundo, p. 24.

<sup>180</sup> Alvaro da Costa, fol. 13<sup>v</sup>.

destroy the Church — for them "... the Kingdom of Evil ..." — and to let the "infidels" (i. e. the Catholics) perish.<sup>181</sup>

The coexistence of Portuguese Catholics with a group of people, obsessed with a loathing for things Christian, is charged with dangers. It would be more secure to live alone in a desert than to reside in a city with the Jews as one's neighbors.<sup>182</sup> They are sure to poison the wells and to make common cause with a foreign enemy.<sup>183</sup> Any kind of treason and deceit may be expected from them, since their schools and synagogues for generations have so trained them in lying that they have lost every vestige of decency.<sup>184</sup>

Such artful schemers could work havoc in any Christian society had not the loss of their pristine bravery seriously impaired their daring. Their nation, previously so feared that even the haughty Romans were anxious to have the Jews on their side, became universally the epitome of cowardice.<sup>185</sup> While formerly even the women commanded armies and performed deeds which to this day astonish

<sup>181</sup> Bento de Santo Thomás, p. 21. Cf. also Costa Mattos, *op. cit.*; fol. 9<sup>v</sup>: "... a principal de suas orações he pedir a extinção dos Catholicos, almalldigoandonos a nos, a nossas igrejas, os difuntos, & quanto geralmente fazemos ..." For a refutation see Menasseh ben Israel, *Vindiciae Judaeorum* . . . , pp. 19–20.

<sup>182</sup> Moreira (1630), fol. 11<sup>v</sup>.

<sup>183</sup> Manoel dos Anjos (1629), fol. 12<sup>v</sup>. Jewish "collaboration" with the Dutch occupants of Pernambuco is the subject of Lope de Vega's play *El Brasil restituído*. José María Viqueira Barreiro published this play with a violently anti-Semitic introduction under the title *El lusitanismo de Lope de Vega y su comedia El Brasil restituído* (Coimbra, 1950). On the alleged treasonable dealings of the Hispanic Jews, established in the kingdom of Naples, and the Turks, see Felipe Ruiz Martín, "La expulsión de los judíos del reino de Nápoles," *Hispania* [Madrid], IX (1949), 199–200. Cf. Cardoso, "Sexta Calunia de los Hebreos. Infeles a los Principes," *op. cit.*; pp. 367–377.

<sup>184</sup> Gomez, fol. 12<sup>r</sup>; Antonio de Sousa, *Sermam* . . . (Lisboa, 1624), fol. 4<sup>r-v</sup>, and Mello, fol. 2<sup>r</sup>.

<sup>185</sup> Bento de Sequeira, *Sermam* . . . (Evora, 1659), fol. 2<sup>v</sup>, Alvares, pp. 1–2. Cf. Noydens' strange comments, *op. cit.*; p. 100: "... nunca han ido à la guerra, ni aun jamas los vemos ceñir la espada, ora por temor, ora por menosprecio, que hazen de la señal de la Cruz, que ven en ella . . ."

The convert Don Alonso de Cartagena, *Defensorium unitatis christianae*, P. Manuel Alonso, S. I., ed. (Madrid, 1943), p. 215, emphasizes that baptism is the remedy for Jewish cowardice: "Ex illis tamen que ex israelitis descendunt impedimento quod ex rubigine infidelitatis habebant, per lavacrum regenerationis sublato, plures numero respective ad paucitatem eorum, sponte, nemine compellente, armorum usum agredi continue videmus, et in actibus bellicis competenti militare, quod tanto singularis est, quanto ante sublationem impedimenti timidiore putabantur et erant. Tanta namque et tam notoria infidelium israelitarum timiditas est, ut cum excessivam timiditatem exprimere volumus, iudeitatem vocemus et excessive timen-tem iudeum solemus vocare."



the boldest men,<sup>186</sup> the term "Jew" is now synonymous with weakling: "... in all the kingdoms of the world they call the coward 'Jew.' And with good reason, for today one does not know of a weaker, more pitiable and pusilanimous nation than that of the Jews."<sup>187</sup> That this transformation is a consequence of their disbelief is beyond dispute.

Small wonder then that the Jews should have become the most vilified and despised nation on earth.<sup>188</sup> There could be no graver insult than to call somebody a Jew, and this was true even among the Romans. It is well known that triumphant generals and Caesars used to assume as appellatives the names of the lands they had conquered. Titus and Vespasian, however, the victors of Judea, refused to call themselves *Iudaicus*, because they realized that such an ignominious name would only tarnish their honor.<sup>189</sup> In modern times, the legend has it that even the Moors spared no pains to show their contempt for Judaism. If a Jew wished to become a Moslem, he was required by law to embrace Christianity first; the Mohametans hoped that baptism would reduce somewhat the infamy of having been a Jew.<sup>190</sup>

## 2. GREED

Even a sketchy portrayal of the Jews must deal with a contradiction which defines their nature. This dichotomy can best be described in the words of Father Manoel da Encarnaçam: "... a people, coarse and blind in spiritual matters, but lynx-eyed in worldly affairs."<sup>191</sup> Their ambition and haughtiness knows no limits, and wealth alone opens gates for them which otherwise would remain closed. Accordingly, the concern with riches absorbs the life of the Jews to such an

<sup>186</sup> Bento de Sequeira (1642), fol. 11<sup>r</sup>.

<sup>187</sup> Mendes de Tavora, fol. 5<sup>v</sup>. Costa Mattos, *op. cit.*; fol. 23<sup>v</sup>, notices this trait even in the Jews of Biblical times: "... não foy tão grande multidão poderosa, para que de algum modo mostrasse valor, a vista dos Egypcios que os seguião, & elles venciaõ em numero, antes acolhidos a Moyses, chorauão sua miseria podêdo liurar o remedio della na pujaça, & nos braços."

<sup>188</sup> Gomez, fol. 7<sup>v</sup>.

<sup>189</sup> Moreira (1630), foll. 14<sup>v</sup>–15<sup>r</sup>; Coutinho, foll. 13<sup>v</sup>–14<sup>r</sup>, and Telles, p. 19.

<sup>190</sup> This story appears in many sermons. See, for example, Francisco da Costa, fol. 16<sup>r</sup>; Areda, fol. 24<sup>r</sup>, and Accursio de São Pedro, fol. 12<sup>v</sup>. Cf. also Ximenes de Aragão, *op. cit.*; fol. 35<sup>r</sup>, and Noydens, *op. cit.*; p. 9. For the tribulations of the Jews under Moslem domination, a topic often brought up by the fathers, see André Chouraqui, "La condition juridique de l'Israélite en droit musulman," *Revue de la Pensée Juive*, number 3 (1950), 100–109.

<sup>191</sup> Manoel da Encarnaçam, fol. 7<sup>r</sup>.

extent that all other preoccupations, as we have seen, are forgotten. Moses is credited with having foreseen that materialism would dominate the fancy of his people. Proof for the hypothesis is found in his having made the Hebrews drink the ashes of the Golden Calf, an incident which Luis Alvares glosses as follows: "Moses wanted to explain the nature of the Hebrews, putting the gold in their very entrails, giving to understand how deeply rooted is their sense of profit. One may remove the calf from before their eyes, but one shall not uproot the love of gold from their hearts. But Moses wanted the gold to pass first through the fire in order to give them a foreboding of their punishment. Let the gold first enter the fire before entering them, so that they may remember in their hearts the fires to which their greed and materialism are ultimately going to lead them."<sup>192</sup>

The craving for money is the leading determinant in the Jews' relations with the society in which they live. Far from contributing to the common welfare, they make a point of appropriating the produce of the toil of their Christian neighbors. This parasitism brings to Estevam de Sant' Anna's mind the following image: "... they are like the ivy; they cover you with their leaves. Everything is flattery, idle words. In their dealings, there are trickery and contracts which seem to favor and enrich you, but finally dry you up and destroy you as the ivy does the tree and the walls."<sup>193</sup>

Jewish predilection for gold thwarts their acceptance of Christianity. A religion which does not sanction usury, money-lending or deceit in commercial transactions holds little attraction for the Jews. Were such abuses tolerated by the Church, the apostates would be among the most fervent Catholics.<sup>194</sup> Yet the riches for which they toil do not bring them happiness nor do they insure the felicity of their children. If the Marranos were only capable of logical reasoning, experience would have disillusioned them long ago. All their striving is in vain, because, as unbelievers, they are sure to come into conflict with the Inquisition. The sentence imposed by the Holy Tribunal

<sup>192</sup> Alvares, p. 11. Marco Antonio de Camos, *Microcosmia, y gobierno universal del hombre christiano para todos los estados*... (Madrid, 1595), II, 205, claims that the worldly possessions of a Jew who embraces Catholicism rightfully belong to the Church: "... los Iudios que oy se hallan, viuẽ de logro, y los bienes, que allegaron, fuerõ con manifesta vsura. Por lo qual siendo este modo de adquirir cõtra todo derecho diuino y humano, por ser contra charidad, no se puede dar titulo de justo possessor al q̃ de esta manera possee lo ageno, que malamente lleuo, como suyo: y asi toca esto a la Iglesia por derecho."

<sup>193</sup> Manoel dos Anjos (1629), fol. 22<sup>r</sup>.

<sup>194</sup> Ayres de Almeida, p. 7.

disgraces for ever their name. Their wealth, a Jew's whole bliss, far from giving them the coveted social status, serves merely to increase the national revenue, since it is confiscated in punishment of their heresies.<sup>195</sup>

Such sound argumentation fails to impress the neophytes, and our priests strongly feel that many of the *Conversos* believe in a possible connection between their unorthodox practices and financial prosperity. Some Judaizers, we are told, persuade vacillating members of their race to observe Jewish rites so that God will reward their faithfulness with temporal possessions.<sup>196</sup> Lest this credence become entrenched, Father Pedro Corrêa scores the belief that economic gains depend upon "... measuring the cloth with the yardstick of Moses ...". A rapid increase in one's fortune, he asserts, is a common event; behind financial prosperity lie only the persistent efforts of a hard-working man.<sup>197</sup> Since loyal devotion to the Faith is the basis of all human endeavors, it follows that heresy cannot lead to opulence.

### 3. BODILY IMPERFECTIONS

To make the likeness of the Jews even more odious, their purported bodily imperfections occasionally receive attention, though far less so than in other anti-Semitic tracts of the Golden Age. The topic provided Costa Mattos with sufficient material for a whole chapter of his *Discurso*. A diligent collector of all the anti-Jewish references and anecdotes found in his vast readings, the Portuguese priest does not omit a single detail, including even the famous "... flow of blood in the lower, private parts ...".<sup>198</sup> Our authors, surprisingly, do not dwell at length on these details, either because they shy from hurting unnecessarily the pride of the accused or because the matter appears to them unworthy of their consideration. The peculiar shape of the so-called "Jewish" nose elicits some strange comments from Father José do Espírito Santo: "When the Jew runs foul of his nose, when he remembers that he is a Jew by birth, he can by no means look toward the right. The devil did this to the bad Jews and their mas-

<sup>195</sup> Mendes de Tavora, fol. 14<sup>r-v</sup>, and Moreira (1630), fol. 18<sup>r-v</sup>.

<sup>196</sup> Sousa, fol. 7<sup>v</sup>, and Rebello, foll. 10<sup>v</sup>-11<sup>r</sup>.

<sup>197</sup> *Op. cit.*; foll. 2<sup>v</sup>-3<sup>r</sup>: "Ganhos filhos são do negocio. Porem (seguindo este norte) dera eu por conselho aos homeês, que para virem a ser muito ricos, tratem de ser mui fieis ..."

<sup>198</sup> *Op. cit.*; fol. 103<sup>r-v</sup>. Chapter XVIII of his work (fol. 102<sup>v</sup> ff.) bears the title "De como os Iudeus são defectuosos, & assinalados em muitas cousas, em castigo de sua perfidia."

ters . . ."<sup>199</sup> And Jorge Pinheiro has a few words to say about the *factor iudaicus*, but he does not hold out the traditional consolation that baptism will remedy this infirmity.<sup>200</sup>

#### 4. RACIALISM

The concept which the priests held of the Jews would scarcely merit extended consideration, had they confined themselves to deriving Jewish hatefulness from unbelief. Their *Judenbild*, however, receives a distinctly modern tinge from the racial bias which permeates their thinking. The reader or listener is given to understand that blindness, ignorance, and even a "heart of stone" could be cured, but there remains one factor defying treatment: Jewish blood. This is a "hereditary disease," which fastens on the embryo in the womb.<sup>201</sup> So powerful a force is Jewish blood that Valerio de São Raymundo feels compelled to state: "It is to be deeply regretted, I confess, that the very fact of having Jewish blood is equivalent to being a defiler of Christ's Law."<sup>202</sup> It blocks out reasoning, precludes persuasion, and eventually triumphs over the Faith.<sup>203</sup> His "blood" irresistibly sways the Neo-Christian toward heresy.

Were this racialism inflexible, it would not only vitiate the praise so freely bestowed on egregious converts, but would also counter the teachings of the Church. Our fathers extricate themselves from this dilemma by paying homage, in passing, to those who, in spite of the ". . . sin of blood and nature . . .,"<sup>204</sup> remained loyal to Christ's doctrine. That many persons of Hebrew extraction turned out to be devout Catholics, is held to redound to the greater glory of God. Therefore, at the beginning of the speech, the orator often asserts most emphatically (*protesto, advirto*) that his remarks are aimed only at the apostates.<sup>205</sup> Such a safeguarding clause, however, disappears under a subsequent avalanche of allusions which establishes, for the

<sup>199</sup> *Op. cit.*; p. 5.

<sup>200</sup> *Sermão . . .* (Lisboa, 1620), p. 34. Cf. Costa Mattos, *op. cit.*; foll. 103<sup>v</sup>-104<sup>r</sup>. Noydens, *op. cit.*; p. 154, lists another Jewish trait: ". . . meneando las cabezas (propiedad de Iudios) . . ."

<sup>201</sup> Ambrosio de Jesu, foll. 1<sup>v</sup> and 9<sup>v</sup>. See Cecil Roth, "Marranos and racial antisemitism. A study in parallels," *Jewish Social Studies*, II (1940), 239-248.

<sup>202</sup> *Op. cit.*; p. 27.

<sup>203</sup> Pedro Corrêa, fol. 6<sup>v</sup>, and Rebello, fol. 6<sup>r</sup>.

<sup>204</sup> Thomás de São Cyrillo, fol. 2<sup>r</sup>.

<sup>205</sup> See, for example, Mendonça (1616), p. 18; Gomez, fol. 13<sup>v</sup>; Accursio de São Pedro, fol. 2<sup>v</sup>, and Antonio das Chagas, p. 3.

popular mind at least, that Jewish ancestry is a concomitant of heresy.

Heredity is also at the root of the Jews' anti-social behavior. Perverseness, malice and hypocrisy are qualities imposed by their cursed race.<sup>206</sup> Being innate vices their correction is a task bordering on the impossible: "As the Abyssinian cannot cease being black as he was brought into the world by his mother, nor the mixed-blood change the variety of colors with which nature adorned him, in the same way it is impossible for the Hebrew people to perform good deeds and to live cognizant of its guilt, however much they are admonished and punished. For with their mother's milk they absorbed and learned every wickedness; an inborn vice is hard to correct."<sup>207</sup>

In view of the potential Jewish peril, criteria for identifying all the individuals pertaining to this nefarious nation must be established. Judaism, as we have seen, is a hereditary disease which acts like any other contagion; accordingly even the smallest portion of Jewish blood produces disastrous results. The fathers feel justified in giving the term "Jew" the broadest possible meaning; for them it includes all those individuals who by any stretch of imagination can be linked to Jewry: "... in order for these [the Marranos] to be born enemies of Christ by ancestry and blood, it is by no means necessary that both parents be practicing Jews. It seems that one is enough (such is the contagion of this wicked people). It is not necessary that this be the father, but the mother is sufficient. And even she does not have to be a full-blooded Jewess, one-half Jewish ancestry is sufficient. Not even that much is required, as a fourth of Jewish ancestry suffices and, indeed, less is required, for our times have shown that one eighth is adequate. God help me, that such a mighty effect should have so small a cause!"<sup>208</sup> Some authors, given to hyperbole, claim that a nail, or one drop of Jewish blood is sufficient to soil an illustrious Christian lineage.<sup>209</sup>

To arrest the spread of this epidemic various measures are favored. Surprisingly, intermarriages are openly criticized only by Father João de Ceita.<sup>210</sup> It bears mentioning that Costa Mattos is charmingly

<sup>206</sup> Antonio das Chagas, p. 10. Cf. Areda, fol. 8<sup>v</sup>, and Torres, p. 5.

<sup>207</sup> Mello, fol. 13<sup>v</sup>.

<sup>208</sup> Ceita, fol. 4<sup>r</sup>.

<sup>209</sup> Coutinho, fol. 10<sup>r-v</sup>, and Thomás de São Cyrillo, fol. 11<sup>r</sup>.

<sup>210</sup> *Op. cit.*; fol. 14<sup>v</sup>: "... Deos vos manda vos não mistureis com gente doutra religião, & ceita. Prouera a Deos que o guardareis como que fosseis Iudeus, ja que nos (especialmente em este Reyno) o não fazemos como bõs Christãos." Fernando Martins Mascarenhas, *Tratado sobre os varios meynos, que se offerecerão a sua Magestade Catholica para remedio do judaismo neste Reyno de Portugal* (n. p. n. d. [1626]), fol. 8<sup>v</sup>,



inconsequent in this respect. Mixed marriages, especially those involving members of the Portuguese nobility, are, for him, unmistakable evidence of approaching divine punishment. At the same time he sees a Jewish conspiracy in the Marrano practice of marrying solely close relatives.<sup>211</sup> Nothing short of collective suicide would probably have mollified his rancor.

The priests recommend above all restrictions against Jews in delicate positions which for them means ecclesiastical dignities. The allegedly large number of Neo-Christians in religious orders truly alarm them and Manoel dos Anjos advises: "There is no reason why one should tolerate tares among pure, clean wheat. Rather, they ought to be extirpated."<sup>212</sup> Especially dangerous are the Marranos as secular priests since they seek such positions only to blaspheme the sacraments entrusted to them.<sup>213</sup> Jews in professional capacities,

comments as follows on the number of mixed unions: "... os christãos novos estão já incorporados, & misturados cõ os Christãos velhos, de maneira que não ha familia nenhũa de consideração, em q̃ não haja muitos homẽs, & muitas molheres participantes do sangue Hebreo..." Inter-marriages are criticized also in purely literary works. Sebastián de Horozco, *Cancionero*, ed. Antonio Martín Gamero (Sevilla, 1874), p. 258, for example, writes: "Y así es consejo sano / para contentos vivir, / que xpiana con xpiano / y marrana con marrano / procuren de se enxerir. / Y quien es xpiano viejo, por codicia de ducados / no tome tan mal consejo / de querer mudar pellejo / haziendo hijos manchados." Francisco Santos (1639 [?]-1700), *El no importa de España* ((Madrid, 1787), p. 171, voices similar criticism: "Mucho me admira, que un hombre como vos, no teniendo mas de una hija y que Dios os ha dado hazienda, querais emplear la flor de vuestro matrimonio tan mal, pues se de cierto que ese mozo que por yerno admitis es hijo de gente de sospecha; y no tan poca que no haya quien diga que su padre fue penitenciado por aquel Tribunal que enarbola una Espada y una Oliva... por vuestra vida que lo mireis mejor, y sin pasion y no os ceguéis precipitado porque una vez hecho será irremediable el dolor que os asistirá..."

<sup>211</sup> *Op. cit.*; foll. 13<sup>v</sup> and 64<sup>v</sup>-65<sup>r</sup>. See also fol. 15<sup>r-v</sup> where he tells the following anecdote: "... ouui hũa vez a hum fidalgo velho grande cortesaõ... que as pessoas que se casauão com gente desta sorte, & deixauão por menos afazendadas outras de calidade, auiaõ mister tudo quanto lhes dauão mais para gastar em desconfianças, que para remir necessidades..."

<sup>212</sup> Manoel dos Anjos (1629), fol. 22<sup>v</sup>. Fr. Antonio Seyner, *Historia del levantamiento de Portugal* (Zaragoza, 1644), pp. 18-19, criticizes the sale of *hábitos* to Marranos during the period of Spanish domination in Portugal: "... empeçaron a brotar Abitos en Lisboa, como yerua en campo llouido. Estas acciones, y otras, empeçaron a desazonar a los Caualleros de modo, que huuo alguno que se quitò del pecho el Abito, diciendo, que lo que antes era honra, ya era afrenta: y quanto a esta parte, quien les negará la razon que tenian?"

<sup>213</sup> This point is stressed in many sermons. See, for example, Manoel de Lemos, *Sermão*... (Coimbra, 1618), p. 11. Pinheiro, pp. 13-14; Ceita, fol. 19<sup>v</sup>; Ressurreyçam, p. 6, and Rebello, foll. 8<sup>v</sup>-9<sup>r</sup>.

on the other hand, do not arouse their misgivings to the same extent. There is no concerted campaign against the often defamed Jewish physicians and pharmacists, the butt of all Iberian anti-Semitic tracts, nor is the Jews' exclusion from the universities advocated with fervor. This omission can hardly be interpreted as tacit approval; it would be more correct to assume that the fathers do not put too much faith in purely temporal measures. For the fight against a gifted, resourceful and unscrupulous enemy, Portugal counts only upon one reliable weapon: the always vigilant Holy Office for which the speakers tirelessly intone paeans of praise.

Toward the middle of the fifteenth century the Spanish convert Alonso de Cartagena wrote a learned treatise to further his dream of the *unitas christiana*. For the son of the former Solomon ha-Levi it was *insanissimum et sceleratissimum* to establish distinctions between Christians, based on the religion of their forefathers. Availing himself of his considerable theological knowledge Alonso de Cartagena could prove his main thesis: "Constat . . . quod filii iniquitas nunquam ad patrem ascendit, ergo nec iniquitas patris ad filium descendit, sed unusquisque ex propria iudicatur."<sup>214</sup> He and many neophytes of his time may have hoped that the Church would eventually espouse with vigor this tenet rather than pay lip service to it. The Portuguese Neo-Christians of the seventeenth century could entertain no such illusions. The morbid racialism of the Lusitanian clergy branded them as clearly as did the distinctive marks which they had been compelled to wear before their conversion. For all practical purposes they were degraded to the level of second-rate citizens for no other crime than their lineage. While racial bias effectively prevented their smooth absorption into Portuguese society, a danger that the fathers feared, it must also have had consequences which they did not foresee. The sustained and brutal attacks against a segment of the population whose contribution to Portuguese achievements far exceeded its proportional strength in the nation can only have fortified the religious fervor, and with it the pride, of the most conscientious elements among the Marranos. Ecclesiastic persecution can probably claim more credit for the survival of Judaism than, as the fathers would have it, the decrepit grandmothers or the ominous *sanguine* (blood).

<sup>214</sup> *Op. cit.*; p. 189. Another illustrious convert, Fernando del Pulgar (1436 [?]-1493 [?]) entertained similar ideas on the subject. See Francisco Cantera, "Fernando de Pulgar y los conversos," *Sefarad*, IV (1944), 295-348.

## IV. THE HOLY OFFICE — DEFENSE AND EULOGY

I. "INSUPERABLE RIVAL OF MERCY AND JUSTICE"<sup>215</sup>

After Forced Conversion, the establishment of the Inquisition in Portugal was the most fateful event for the descendants of Lusitanian Jewry. Only too familiar with the aims and methods of the Holy Tribunal in neighboring Spain, the Portuguese Neo-Christians did their best to prevent the enforcement of the relevant papal brief. The sordid story of the intrigues and extortions, which characterized the negotiations in Rome, has been told eloquently by the Portuguese historian and writer, Alexandre Herculano.<sup>216</sup> Although the clerical faction, strongly supported by the crown, finally won out, the Marranos never ceased making representations to the papacy in order to call attention to the abuses committed under the pretext of upholding the purity of the Faith. While the results of these efforts were far from encouraging — merely a few general pardons were secured which, however, were, as a rule, followed by waves of persecutions — the Inquisitors may, nevertheless, have felt the need of gainsaying the assertions of their victims. The large audiences at autos-da-fé, representative of all segments of the population, made them an ideal forum for a propagandistic counter-offensive. Striking

<sup>215</sup> Ferreyra, p. 3. It bears mentioning that at present Spanish scholars are making a concerted effort to vindicate the Inquisition. See, for example, Bernardino Llorca, S. I., *La Inquisición española. Estudio crítico* (Santander, 1953); Miguel de la Pinta Llorente, O. S. A., *Las cárceles inquisitoriales españolas* (Madrid, 1949), and *La Inquisición española y los problemas de la cultura y de la intolerancia* (Madrid, 1953).

<sup>216</sup> *Historia da origem e estabelecimento da Inquisição em Portugal* (2nd ed., Lisboa, 1864-1872).

For Jewish criticism of the Inquisition see Samuel Usque, *Consolaçam ás tribulaçoens de Israel*, ed. Mendes dos Remédios (Coimbra, 1907 — the first edition was published in Ferrara, 5313), III, fol. xxvi<sup>r</sup>, where he attacks the "... fero Monstro de forma tam estranha e tam espantosa catadura que soo de sua fama toda Europa treme . . .," Menasseh ben Israel, *Esperança de Israel*, ed. Santiago Pérez Junquera (Madrid, 1881 — the first edition was published in Amsterdam, 5410), uses similar terms: "Pues que diremos, de aquel monstro horrendo de la inquisicion de España? que tiranias no vsa cada dia, con los pobres inocentes, viejos, moços, y toda edad y sexo, quitandoles muchas veces la vida . . .," of special importance is the collective work *Elogios que zelozos dedicaron a la felice memoria de Abraham Nunez Bernal, que fue quemado vivo santificando el Nombre de su Criador en Cordova a 3 de Mayo 5415* (n. p., n. d. [Amsterdam, 1655?]). On the last mentioned work see Camille Pitollot, "Sur un livre oublié de poésies judéo-espagnoles," *Cultura Española*, XII (1908), 977-1022, and Cecil Roth, "Abraham Nuñez Bernal et autres martyrs contemporains de l'Inquisition," *Revue des Etudes Juives*, C<sup>bis</sup> (1936), 38-51.

is the amount of space and energy dedicated in the sermons to defending and extolling the conduct of the Inquisition against its purported defamers. That the latter were too frightened to speak up made the apology all the easier for our priests.

The enemies of the Holy Office, in their attacks, lay stress on its being a modern institution, an argument likely to carry weight with a tradition-minded people, distrustful of *novedades* (new ways). That the formal organization of the Holy Tribunal is of recent date can hardly be denied; but earlier beginnings may possibly be found for the spirit which inspires this enterprise. This is an idea to which our authors cling; anxious to enhance the prestige of the Inquisition they declare that it was, in a slightly different form, already functioning in Biblical times. That God Himself can rightly be considered the First Inquisitor is proved with a neat *tour de force*: "... so honorable is this task that God himself performed it when the first delinquent arose. God will remain in the position of a general and supreme Inquisitor until the end of the world. In the life of each one the evidence for his trial is being gathered, and at the Last Judgment the final sentence will be pronounced."<sup>217</sup> Christ and the Holy Ghost also shouldered, we are told, the heavy burden of Inquisitors.<sup>218</sup> The same honor is bestowed upon an impressive array of Biblical figures such as Moses, David, Isaiah, and Jeremiah.<sup>219</sup>

An institution so deeply rooted in the tradition of the Church cannot be conceived as wanting in mercy and kindness; allegations to the contrary must be dismissed as vicious distortions. Its shield is symbolic of the spirit of the Holy Office, for it shows both an olive tree, the emblem of clemency, and a sword, representing the rigor of justice. The many possible interpretations of the two symbols are a favorite topic of our authors. The green of the olive tree stands for the hope which the Holy Tribunal holds out to repentant sinners;<sup>220</sup> it appears at the right hand — the one more often used — to

<sup>217</sup> Ambrosio de Jesu, fol. 1<sup>r</sup>; cf. also Pinheiro, p. 31, and Coutinho, fol. 18<sup>r-v</sup>.

<sup>218</sup> Viegas, pp. 1-2, and Ceita, fol. 15<sup>r</sup>. Cf. Juan Marquez, *Memorial juridico, que por los abogados de presos del Tribunal del Santo Oficio de la Inquisicion de la Ciudad de Sevilla presenta al Consejo de la Suprema y General Inquisicion* . . . (n. p., n. d.), fol. 20<sup>r</sup>: "... Christo Señor nuestro fue el primer Inquisidor de la ley Evangelica . . ."

<sup>219</sup> Pinheiro, p. 32, and Cesar, pp. 21-22; Manoel da Encarnaçam, fol. 12<sup>v</sup>; Moreira (1630), fol. 2<sup>r</sup>; Valerio de São Raymundo, p. 8, and Bento de Sequeira, fol. 5<sup>v</sup>.

<sup>220</sup> Pedro Corrêa, fol. 1<sup>r-v</sup>, and Ayres de Almeida, p. 13. Ionar Abarbanel (*Elogios* . . ., p. 149) offers the following comments on inquisitorial leniency: "A la oliua con la espada, / Teneis por alto blason, / Esta esgremis, que la oliua, / Nunca diò fruto ny flor."

signify that the Inquisition is given more to forgiveness than bent upon punishment.<sup>221</sup> Furthermore, the olive tree is said to have firm roots, because leniency is the principle of all inquisitorial decisions.<sup>222</sup> Not even the sword is intended exclusively for chastisement. True enough, it has a sharp point and fine edges, but, taken by the handle, denoting the Cross, it offers protection.<sup>223</sup>

Such is the perfection of this tribunal that it may rightly serve as a model for other courts. The secretiveness of its procedures is exemplary and therefore "... when we refer to a 'secret of the Inquisition' we mean it is the most privileged of all secrets."<sup>224</sup> Proofs which are adequate from the viewpoint of human laws fail to quiet the scruples of the Inquisitors. All the circumstances of every case are subjected to a conscientious scrutiny, and testimony rendered suspicious by personal antagonism is immediately discarded.<sup>225</sup> The task of the ministers of the Holy Office consists of a more demanding chore than merely pronouncing sentence, since they ought to save the accused from the consequences of their obstinacy and blindness. They are seen pleading diligently with the culprits, and, indeed, their efforts on behalf of the *Conversos* make them appear more as their lawyers than as their judges.<sup>226</sup>

With all this, the magistrates of the Inquisition are still open to considerable criticism. Many good Christians find that the Holy Office is going too far in the leniency accorded to the Judaizers. A typical recrimination reads: "Gentlemen, why do you show so much clemency in view of such obstinacy? Why so much mercy, where perfidy and unbelief are steadily growing? Why do you overlook and forgive, if there is so little hope of correcting an evil so ancient?"<sup>227</sup> Such a

<sup>221</sup> Torres, p. 27.

<sup>222</sup> Diogo da Annuniação Justiniano (1710), p. 34.

<sup>223</sup> Joseph de Oliveyra (1691), p. 47.

<sup>224</sup> Areda, fol. 18<sup>r</sup>.

<sup>225</sup> Sousa, foll. 14<sup>v</sup>-15<sup>r</sup>, and Telles, pp. 32-33. Ionar Abarbanel (*Elogios* . . . , p. 93) scores the legal fiction of the so-called "relaxation": "O tribunal cruel injusto, impio / Vengue el Dios de venganças tus ficciones / Que dando la sentencia a tu aluidrio / Con pluma agena cubres tus traiciones / La pidra [*sic*] tiras de veneno frio / Ocultando las manos de Nerones, / Hipocritas con capa de piedades / Iuezes sin justicia y sin verdades."

<sup>226</sup> Valerio de São Raymundo, p. 26. Cf. also Ferreyra, p. 23, and Christovam de Santa Maria, p. 6. Ionar Abarbanel (*Elogios* . . . , p. 148) has a different concept of inquisitorial justice: "Que caiga la idolatria, / Por flaca; teneis temor, / Y por materia de estado, / Sustentais la inquisicion. / No por zelo de las leyes, / De la Romana intervencion, / Mas para comer el pan, / Sin trabajo, y sin sudor."

<sup>227</sup> Gomez, fol. 14<sup>r</sup>.



reproach, while motivated by righteous ardor, falls short of understanding the nature of inquisitorial proceedings. The Inquisition, taking its model from the justice of God, in fact being the Tribunal of God, is naturally disposed to forgiveness. Its ministers realize that Faith depends upon both understanding and inclination; kindness then would go a long way toward inspiring affection for the teachings of Christ.<sup>228</sup> The clemency of God's Tribunal certainly cannot be imputed to a lack of zeal; rather it must be seen as *política do Ceo* (art of divine government),<sup>229</sup> that is to say, as true Christian piety which restrains the Inquisitors in the punishment of the culprits. That this clemency has clearly defined limits is expressly stated: those who cannot be won over by gentle persuasion must be delivered to the flames.<sup>230</sup>

Nevertheless, the purported excessive leniency arouses the apprehensiveness of some speakers who take it upon themselves to warn the Inquisitors against the dangers inherent in their policy of "appeasement." Manoel Evangelista stresses that mercy for Jews is wasted mercy.<sup>231</sup> André Gomez, recalling that "... if Christ forgave a thief, he was a crucified and punished thief . . .," concludes with a passionate appeal for an intensification of repressive measures: "Since you are the atlantes who sustain the weight of our Holy Faith, since you are responsible for the honor of God, the glory of Christ, the fame and reputation of the Christians of this kingdom, be vigilant, remain on guard, cut out or burn the roots of so much evil. Let us all be zealous in offering our wholehearted support . . ." <sup>232</sup>

The speakers' comments on the general pardons — temporary reprieves during the campaign of incessant persecution — afford an excellent illustration of the compassion which the Inquisition felt for Neo-Christian offenders. Gregorio Taveira expressed wishful thinking

<sup>228</sup> Sousa, fol. 15<sup>r</sup>; Coutinho, foll. 18<sup>v</sup>–19<sup>r</sup>, and Christovam de Almeida, pp. 54–55.

<sup>229</sup> Vieyra, p. 22.

<sup>230</sup> Couto, fol. 21<sup>r</sup>. Menasseh ben Israel, *Vindiciae Judaearum* . . ., p. 32, comments on inquisitorial methods of persuasion: "The Spanish Inquisitions, with all their torments, and cruelties, cannot make any lew, that falls into their power, become a Christian. For unreasonable beasts are taught by blowes, but men are taught by reason. Nor are men perswaded to other opinions, by torments, but rather, on the contrary they become more firm, and constant in their Tenet."

For an interpretation *sui generis* of the Spanish Inquisition see Robert Körner und Theodor Pugel, eds., *Antisemitismus der Welt in Wort und Bild* (Dresden, 1935), p. 75: "Der Grossinquisitor Spaniens war der getaufte Jude Torquemada, dessen Blutdurst Hunderttausende arisch-christlicher Menschen zum Opfer fielen."

<sup>231</sup> *Op. cit.*; fol. 17<sup>r</sup>.

<sup>232</sup> *Op. cit.*; fol. 15<sup>r</sup>.

rather than facts when he portrayed the Holy Office as attempting to secure such pardons.<sup>233</sup> Estevam de Sant'Anna and others who express more closely the prevailing sentiments, see in them merely ill-advised concessions to Jewish deceit, which, in turn, encourage a recrudescence of heretical practices. They hoped that royalty and the popes would profit from these lessons so that similar requests will not be heeded in the future.<sup>234</sup> Somewhat more crude is their expectation that the continued drain on Jewish resources will make it impossible for them to "finance" any future negotiations for a general pardon.<sup>235</sup>

The exceptionally high standards of this incorruptible tribunal, however, do not deter the venomous attacks of the Judaizers. They proclaim insolently that the Devil introduced the Inquisition in Portugal.<sup>236</sup> To give the lie to these detractors, God "authorized" the noble institution with sixty miracles, and His angels are understood to have acted on occasions as familiars of the Holy Office.<sup>237</sup>

The Inquisition, like any other court of justice, bases its verdicts on the testimonies which it receives. Naturally, the Neo-Christians impugn the authenticity of the denunciations and confessions made to it. But such a refutation is a two-edged weapon which can be turned against the defamers themselves, for it is invariably the deposition of Marranos which leads to inquisitorial action.<sup>238</sup> The declarations of Old Christians, as a rule, favor the Crypto-Jews; they confirm that the Neo-Christians attend church regularly, are active in the brotherhoods and often seek confession.<sup>239</sup> A different story is told by those

<sup>233</sup> *Op. cit.*; fol. 3<sup>r</sup>. See Mendes dos Remédios, "Os judeus e os perdões gerais," *Biblos*, I (1925), 631-655.

<sup>234</sup> Estevam de Sant'Anna, fol. 8<sup>v</sup>. Cf. also Francisco da Costa, fol. 9<sup>r</sup>, and Alvaro da Costa, fol. 23<sup>r</sup>.

<sup>235</sup> Estevam de Sant'Anna, fol. 10<sup>v</sup>. For an example of the financial sacrifices the *Conversos* were willing to make in order to attain more bearable conditions see the "Relação do succedido em o negocio da Nação" in Fr. Alexandre da Paixão's *Monstruosidades do tempo e da fortuna. Diario de factos mais interessantes que succederam no reino de 1662 a 1680 . . .*, J. A. da Graça Barreto, ed. (Lisboa, 1888), p. 218: "3.º Que se obrigavão a dar todos os annos 20:000 crusados, para ajuda do sustento da gente de guerra do Reino. 4.º Que se obrigavão a pagar de sua fazenda todos os custos que fisessem os missionarios, que vão a prégar a fé pelas Conquistas. 5.º Que pagarião o custo das Lettras de todos os Bispos ultramarinos . . ." For the attribution of this work to Fr. Alexandre da Paixão see Gastão de Melo de Matos, "A autoria das *Monstruosidades do Tempo e da Fortuna*," *Academia Portuguesa da História. Anais. Ciclo da Restauração de Portugal*, X (1946), 187-202.

<sup>236</sup> Manoel dos Anjos (1629), fol. 25<sup>r-v</sup>.

<sup>237</sup> Manoel da Encarnação, fol. 15<sup>r-v</sup>.

<sup>238</sup> This point is emphasized in all the sermons. See, for example, Cesar, p. 23, and Valerio de São Raymundo, p. 26.

<sup>239</sup> Accursio de São Pedro, fol. 14<sup>v</sup>.

who know the accused best. The father attests to the heresy of his son, the son bears testimony against his father, relatives and friends denounce each other.<sup>240</sup> Therefore, it is completely absurd for the priests to speak about false testimonies against the *Conversos*. Often as many as sixty witnesses are asked to testify, and yet there is never the slightest discrepancy in their declarations with regard to the names of their accomplices, their observances, the dates and places of their gatherings. Even recalcitrant sinners who only confess at the last moment, overcome by the fear of death, bear out and confirm all the allegations of their accusers.<sup>241</sup> If, however, an innocent is condemned, the blame should be laid not to the Inquisitors, who painstakingly investigate every case, but to the malice of the Jews who deceive them by falsely accusing their own brethren.<sup>242</sup>

How unfounded Jewish protests against inquisitorial cruelty are can also be inferred from the behavior of the Marranos released from prison. There is evidence that the flames of the stakes frightened them into admitting their errors; but the glare of this fire, as the contemporary metaphor had it, is insufficient to illuminate for them the beauty of truth.<sup>243</sup> They come to take for granted the excessive clemency shown to them, and are not long in observing once more the very same rites they had foresworn. The Jews as a whole show open disrespect for the Holy Tribunal. The condemned who had "collaborated" with the Inquisition are rejected and despised after their release.<sup>244</sup> Those tested in their Judaism (*laureados pelo judaismo*), on the other hand, are held in the highest esteem,<sup>245</sup> and the female defendants, in particular, are assured of making a good marriage.<sup>246</sup>

<sup>240</sup> Mello, fol. 17<sup>r-v</sup>, and Moreira (1645), pp. 17-18.

With nauseating cynicism the fathers assert that Jewish parents are the worst enemies of their own children. Estevam de Sant'Anna, fol. 11<sup>v</sup>, writes: "... sabendo muyto bẽ, & tendoo ja por experiencia, q̃ se vossos filhos forẽ Iudeus, tarde ou cedo hão de vir morrer naquelle pōbal, q̃ em fim os ministros da Inquisição não dormem ... sabẽdo isto os criais Iudeos ...". And Joseph dos Anjos, *Sermão* ... (Coimbra, 1727), p. 30, repeats: "... sendo a causa de tanto mal os mesmos Pays, que lhe deraõ o ser para lho tirarem: verdadeiramente os vossos mais crueis homicidas! ... crearaõvos na infancia para vos degolarẽ na adolescência, & na maioridade: as vossas Mães verdadeiramẽte não foraõ legítimas, Madrastas sim ...".

<sup>241</sup> Accursio de São Pedro, fol. 15<sup>r</sup>.

<sup>242</sup> Mello, fol. 22<sup>r-v</sup>, and Manoel Pereyra, p. 32.

<sup>243</sup> Francisco de Santo Thomás, p. 4.

<sup>244</sup> Mello, fol. 17<sup>r</sup>.

<sup>245</sup> Ceita, fol. 6<sup>v</sup>.

<sup>246</sup> Costa Mattos, *op. cit.*; fol. 84<sup>r-v</sup>. Elsewhere, fol. 83<sup>v</sup>, the author illustrates the Marranos' scorn for the Inquisition with a charming anecdote: "... hum sambenitado bem conhecido no Reyno, o qual estando no bairro de Santa Marinha com-

Jewish slander of the Inquisition — the speakers postulate — should give way to enthusiastic praise, for their debt of gratitude toward the Holy Office is truly great. The dungeons to which they are confined can properly be termed their door to heaven.<sup>247</sup> The ministers of the Holy Tribunal, receiving them with love and kindness, labor incessantly so that they will embrace the Law of Grace.<sup>248</sup> The Judaizers enter the prisons blind, but their eyes are opened there; during their detention they are properly taught how to seek salvation. They come as Jews and leave as God-fearing Catholics, and thus their happiness begins.<sup>249</sup> The temporal hardships they have to endure are, when seen from a long range point of view, a blessing, because they save them from the far more formidable torments of eternal chains.<sup>250</sup>

## 2. TOWARD AN APOTHEOSIS OF THE HOLY TRIBUNAL

That Portuguese Christians as well owe abiding respect and deep veneration to the Holy Office is impressed upon the audience from the very beginning of the sermons. In addressing the ministers of the Inquisition our speakers use a whole string of emphatic appellations which tend to become more and more hyperbolical as time advances. A representative specimen reads: "Incorruptible tribunal of our faith, firm and unshakable foundation of the truth of our doctrine, austere example of true justice, living image of the greatest mercy to whose zeal the Catholic Church is indebted for the conversion of innumerable heretics and our Portugal for the preservation of faithful Catholic hearts."<sup>251</sup> In a similar vein, Christovam de Santa Maria writes: "Holy, wise and incorruptible tribunal without peer of our Holy Faith, fierce defender of Catholic Truth, firm pillar of the Christian Religion, faithful guardian of the honor and rites of the true God, death to the wicked, life and spirit of the righteous . . ."<sup>252</sup> These invocations state in concise terms one of the theses to be developed

prindo a penitencia, todas as vezes que sahia fora chamaua antes . . . sua vizinha, & dizialhe, venha vossa merce & verá se vou gentilhomem . . ." Cf. Noydens, *op. cit.*; pp. 252-253: "Cierta Iudio de Eluas llegó a Euora para tratar de sus negocios con otro, entonces sambenitado. Y despues de auer hablado vn rato, se le hechò sobre el ombro, diciendo: *Tengale v. m. vn poco, y has [sic] de perderle el miedo.*"

<sup>247</sup> Pinheiro, p. 4, and Caietano de São Joseph, pp. 57-58.

<sup>248</sup> Silva, pp. 31-32, and Joseph dos Anjos, p. 32.

<sup>249</sup> Caietano de São Joseph, p. 54.

<sup>250</sup> Castelbranco, p. 37.

<sup>251</sup> Barata, p. 1.

<sup>252</sup> *Op. cit.*; p. 5. Cf. Joseph do Nascimento, p. 1.

in the course of the orations, namely that the Holy Tribunal is the mainstay of the Church and, by implication, the defender of the values which enabled the nation to discharge the responsibilities of an imperial power. No praise can be extravagant that is bestowed on the august body charged with this heavy burden. Lest anybody fail to assimilate this truth, its labors and accomplishments are repeatedly extolled in the speeches through a great variety of images and metaphors.

In view of the special functions of the Inquisition, it is only fitting that military images, in particular those which suggest defense or watchfulness, should predominate. The inquisitorial procession brings to mind an Army of the Lord triumphing over His enemies.<sup>253</sup> The Inquisitors are, for our authors, guardians who imitate "... the Angels watching over the walls of the Church Militant..."<sup>254</sup> They are seen as towers, castles or walls, containing the onslaught of heresy;<sup>255</sup> they are called "... the sheep-dogs of Christ's flock..."<sup>256</sup> Finally, the Inquisitors are the ever-alert eyes watching over the Church of Christ.<sup>257</sup>

The continuance of their drudgery evokes the tasks of a gardener who must daily "... tear out thorns, burn weeds..."<sup>258</sup> or of a diligent farmer who tries to keep the evangelical wheat free from the poison weed of Judaism.<sup>259</sup>

To enhance further inquisitorial prestige, the speakers draw on the Bible in search for appropriate comparisons. The ministers are termed "... cherubim full of wisdom..."<sup>260</sup> they are likened to the angels on Jacob's ladder, since they too exert themselves to reconcile the patriarch's descendants with God.<sup>261</sup>

Such oratorical pyrotechnics, if they set out the manifold duties of the Inquisition, fail to do full justice to its rôle within the total organization of the Church. The enthusiastic words of praise found at the beginning of the sermons establish clearly that, for the speakers, the Holy Tribunal is entitled to claim a pre-eminent place in the ecclesiastical hierarchy. It was, however, left to a Portuguese Jesuit from the Far East to come up with a panegyric, the verve of which can hardly be matched by other tributes to its glory: "... very aptly

<sup>253</sup> Coutinho, fol. 17<sup>v</sup>.

<sup>254</sup> Antonio das Chagas, p. 43.

<sup>255</sup> Thomás de São Cyrillo, fol. 6<sup>r-v</sup>, and Caetano de São Joseph, p. 57.

<sup>256</sup> Sousa, fol. 14<sup>r</sup>.

<sup>257</sup> Christovam de Almeida, pp. 55-56.

<sup>258</sup> Coutinho, fol. 17<sup>r</sup>.

<sup>259</sup> Costa Soarez, fol. A<sub>2</sub><sup>r-v</sup>.

<sup>260</sup> Ambrosio de Jesu, fol. 10<sup>v</sup>.

<sup>261</sup> Pinheiro, p. 3.



the ministers of this Holy Tribunal are called 'eyes', because they are the most noble and beautiful part of this mystical body of the Christian state . . .'<sup>262</sup>

## V. PORTUGAL IN THE FIGHT AGAINST JEWRY

### I. A SHORT HISTORY OF THE ORIGIN OF LUSITANIAN MARRANOS

While religious and social questions of a universal character hold at length the attention of our speakers, they are far from indifferent to the specific problems of Portugal. The cancer of Judaism threatens the very existence of the state to the same extent that it endangers the church. The complete accord between national and ecclesiastic interests enables our fathers to fight back against the Jews as so many soldiers of the *Ecclesia militans* and as patriots.

That the Portuguese, a people proud of their rigid observance of Catholicism, should have to harbor an exceptionally large number of heretics in their midst, is cause for grave concern. What exacerbates popular sentiment is the realization that these disbelievers are not of Lusitanian stock, but strangers, established and tolerated in their country. How they were able to gain admission to Portugal is a topic often treated by the speakers. In the rewriting of this episode for the benefit of the audience, historical truth fares badly at the hands of the priests.

The blame for the admittance of the Jews cannot be laid to a lack of foresight on the part of King John II, because the venerable figures of the Lusitanian monarchs always remain above criticism. Rather the nation as a whole must shoulder the responsibility for the fateful measure, since by its sins it provoked God into visiting such an affliction on the country.<sup>263</sup> The Portuguese crown clearly understood the dangers inherent in a prolonged tolerance of this sect, and John II's successor, Manuel, decreed the expulsion of all those who refused to embrace Christianity.

Needless to say, such a measure is wholeheartedly endorsed by the speakers who spill much ink over King Manuel's generosity. The sovereign, they point out, gave full freedom to those who theoretically

<sup>262</sup> Areda, fol. 17<sup>r</sup>. Cf. Joseph dos Anjos, p. 10.

<sup>263</sup> Estevam de Sant'Anna, foll. 13<sup>v</sup>-14<sup>r</sup>, and Mendes de Tavora, fol. 23<sup>r</sup>. Only Costa Mattos, *op. cit.*; fol. 65<sup>r</sup>, dares to criticize King Manuel: "... isto se deue entre impresas tão gloriosas aos desnecessarios faoures que el Rey Dõ Emanuel lhes [i. e. the Jews] fez aquelles mesmos dias em que os outros se fizeraõ gloriosos com sua destruição . . ."

had become his slaves. If he denied the Jews ships for the voyage to Africa, it was only to prevent their worshipping Allah; on the other hand, he showered them with royal favors, and in his kindness even granted them a general pardon, not because of any temporal interests, but to save them from certain perdition.<sup>264</sup> That this expulsion was, as a matter of fact, a thinly disguised form of forced conversion is nowhere mentioned nor is there the slightest hint that this was a flagrant breach of a royal pledge. Even the compulsory separation of Jewish minors from their parents for the purpose of Catholic indoctrination is unreservedly approved. The fathers do not omit in silence that excesses were committed; however, it is not official repression that arouses their anger, but the actions of some Jewish mothers who killed their children rather than hand them over to the authorities to be brought up as Christians.<sup>265</sup> That the uncertainty over the children's future or the fear of "experiments," such as the colonization of St. Thomé, may have stirred the mothers to so tragic a step is never taken into consideration.

Royal bounty, however, could not overcome Jewish pertinacity, and Manuel's policy ended in failure. A sincere conversion was out of the question and, as a result of the decree of expulsion, only a handful of devout Jews left while many *Iudeos fingidos* (Crypto-Jews) remained behind. Their numerous descendants show no willingness to amend the ways learned from their forebears, nor are they any more anxious to leave Portugal than their fathers were. The latter fact provides the churchmen with food for thought — (they do not bother to take into account minutiae such as the legal restrictions against the emigration of Neo-Christians) — especially in view of Jewish allegations concerning inquisitorial persecution.<sup>266</sup> Nevertheless,

<sup>264</sup> Castelbranco, p. 33. Amador Arraiz, Bishop of Portalegre, discusses different views on the validity of this forced baptism in his *Dialogos* (Coimbra, 1589), foll. 45<sup>r</sup>–47<sup>r</sup>.

<sup>265</sup> Ceita, fol. 7<sup>v</sup>, and Manoel dos Anjos (1629), fol. 16<sup>v</sup>. Aboab, *op. cit.*; pp. 307–308, stresses that these measures brought about divine retribution: "Y muchas vezes oi dezir á mi señor Ishac Aboab que sea en gloria: Mirad hijos las prueuas tan euidentes de la diuina prouidencia; que el Rey don Iuan Segundo, que tan sin razon apartó los innocentes hijos, del amoroso aspecto de sus padres, y los mandó lleuar á las Islas de los Lagartos . . . despues murió en lo mejor de sus dias, no sin sospecha de veneno . . . y dizen, que quando se murió, gritaua en aquel vltimo trance, diciendo: Quitenme de aqui á estos niños."

<sup>266</sup> Moreira (1645), pp. 16–17. Legal restrictions against the emigration of Conversos were removed by a *Carta de Lei*, entitled *Aos Christãos Novos privilegio, per que ElRey lhe concede, que se possam ir pera onde quizerem, com outras mais graças nelle contheudas* (Lisboa, 1773). Another decree, issued in the same year, implies

they are not at a loss to explain the Jews' preference for Portugal. In all the other countries the Jews are constantly harassed, only Portugal tolerates them.<sup>267</sup> Tolerance even is hardly the right word for the treatment dispensed to them there; it is truly their Promised Land, and their Paradise, because in Portugal every Jew is a king.<sup>268</sup>

## 2. THE JEWISH CONSPIRACY AGAINST PORTUGAL

The exceptional privileges which the Jews enjoy in Portugal do not kindle in them any feelings of gratitude for this hospitable country. As they do everywhere else, they are scheming to cause as much harm as possible to their Christian neighbors.<sup>269</sup> Father Francisco de Mendonça has recourse to a simile to shed full light on the Jewish menace to his country: "Tell me, if a man infected by plague entered this city without the knowledge of the public authorities, and if he walked through the squares, the streets, our Churches, our houses, speaking and dealing with everybody, what would happen to us? In two days the city would be ravaged by the plague. Well, this Jewish blindness is a plague if it moves among us without being detected. Portugal, I fear for you!"<sup>270</sup>

While such accusations do not go beyond what has been dealt with in the chapter about the general concept of the Jew, there are in the sermons also concrete references to Portugal's past and present history which justify a separate treatment. The priests' evaluations of Jewish contributions to Portugal are variations on the theme "*Der Jud ist schuld*." There is, indeed, no event for which they cannot be

a complete reversal in the official attitude toward the Neo-Christians. See the *Carta de Lei, Constituição Geral, e Edicto Perpétuo por que Vossa Magestade . . . He Servido restituir a todos os Estados dos seus Reinos, e Senhorios a Paz, e Concordia, que contra o Espirito da Igreja Universal; das Igrejas Particulares de toda a Christandade; e contra a successiva, e constante Disposição das Leis, e dos louvaveis costumes da Monarquia Portuguesa; se tinham alterado, e perturbado com sinistros intentos pelo Estratagemas da inaudita Distingão de Christãos Novos, e Christãos Velhos, maquinado para a ruína da União Christã, e da Sociedade Civil da mesma Monarquia . . .* (Lisboa, 1773). (A few years later Spain followed suit. See, for example, the *Real Cedula de S. M. y Señores del Consejo, por la que se declaran a los individuos vulgarmente llamados de la calle de la Ciudad de Palma del Reyno de Mallorca, aptos al servicio de mar y tierra en el Exercito y Armada Real, y para otro qualquier servicio del Estado en la forma que se previene* [Madrid, 1785]).

<sup>267</sup> Moreira (1630), fol. 11<sup>r</sup>.

<sup>268</sup> Accursio de São Pedro, fol. 11<sup>v</sup>; Viegas, p. 4, and Antonio Corrêa, p. 21.

<sup>269</sup> Moreira (1630), fol. 8<sup>r-v</sup>.

<sup>270</sup> *Op. cit.* (1616), p. 27.

blamed. "It is the opinion of many learned men who examine events with prudence and fear of God that one of the causes of the evils and tribulations, which the kingdom has suffered for so many years, is the presence of a great many Jews among us."<sup>271</sup> Even the loss of Portuguese independence in the wake of King Sebastian's defeat on the battlefield of Alcacer-Quibir is laid to their door. That many Portuguese and Sebastian's devout uncle, Philip II of Spain, vigorously objected to this quixotic adventure is left unmentioned. Sebastian's responsibility for the disaster is limited to the kindness with which he treated the Jews, thus inviting the wrath of heaven.<sup>272</sup>

Although our authors presumably do not wish to descend to the level of the accused by evincing an excessive concern for temporal affairs, it is mentioned in passing that Jewish support for Dutch shipping enterprises has seriously curtailed Iberian commerce.<sup>273</sup>

By far the most frequent and stirring accusation is that the Jews are deliberately ruining Portugal's excellent reputation abroad. The fathers, contemplating the spectacle of large autos-da-fé, repeated at short intervals in Coimbra, Evora, and Lisbon, cannot help wondering about the reaction of foreign public opinion, and there were those who argued that national interest required that the autos be held in secret.<sup>274</sup> Some consolation is derived from the fact that as

<sup>271</sup> Sousa, foll. 15<sup>v</sup>-16<sup>r</sup>.

<sup>272</sup> Manoel dos Anjos (1629), fol. 21<sup>v</sup>. Aboab, *op. cit.*; p. 308, holds the opposite view: "... permitió el Señor, que á la quarta generacion, viniesse quasi toda la nobleza de Portugal, y su Rey don Sebastian á Africa para seren [sic] destruidos, y captiuos en el mismo lugar, adonde sus abuelos, indigna, y cruelmente, mandaron á desembarcar los afligidos Israelitas. Alli acabó la flor de Portugal, y los que quedaron fueron lleuados á Fez, donde fueron vendidos á voz de pregonero, en las plaças donde habitauan los Iudios sucesores de los innocentes perseguidos; que quiso el Señor mostrarles essa vengança." Cf. also the anonymous *Breve discurso, politico sobre las expulsiones, de los Hebreos, en diversos Reynos, y Proviñcias, de Europa que pondera un retirado sujeto, sin sospecha de passion; ni interesado, por ninguna, de las dos partes* (n. p., n. d.), p. 11: "El mismo Rey Don Manuel . . . hizo bautizar por fuerza a los Hebreos de su Reyno, tomandoles los hijos, para obligarlos a ser Christianos; y sino llevò el castigo, lo descargò el Señor, en su bisnieto el Rey Don Sebastian . . ."

<sup>273</sup> Ceita, foll. 17<sup>v</sup>-18<sup>r</sup>.

<sup>274</sup> Moreira (1646), p. 21, and Castelbranco, p. 32.

Dom Francisco Manoel de Melo, *Ecco polytico. Responde en Portugal a la voz de Castilla* . . . (Lisboa, 1645), fol. 36<sup>r</sup>, emphasizes that Portugal, unlike other Catholic countries, is firmly determined not to have any dealings with the Jews: "... no dexaremos a Dios por nuestra conveniencia. Por solo ella agaçaja Roma, cabeça del mudo y de la Christiandad, aquella nacion [i. e. the Jews] . . . todos Principes, y Republicas llenas de piedad, y religion, los Reyes Catholicos, sino en

soon as the guilty are produced in public, their sentences are also announced. Thus it is made clear to everybody that in Portugal Judaism cannot count on indulgent tolerance.

An even more devastating blow to Portugal's international stature is the shocking behavior of Lusitanian Marranos who succeed in escaping to a foreign country. Wherever they take up residence, be it in Amsterdam, Livorno, or Pernambuco, those who have been nursed with "the milk of the Church" take advantage of the first opportunity to worship their idols.<sup>275</sup> Small wonder then that other nations, unfamiliar with the piety of the true Portuguese, should be inclined to think that all Lusitanians are Jews. This credence is diffused throughout Europe and, consequently, many Portuguese are ashamed to admit their nationality abroad.<sup>276</sup> A few particularly malicious foreigners, when speaking with a Portuguese, pretend that they have to find out first, whether he does not give out the smell characteristic of Jews.<sup>277</sup> Using all his dialectical subtlety, Father Manoel Rebello makes a feeble attempt to prove that the return of Portuguese Neo-Christians to Judaism in their foreign places of residence must enhance the prestige of the nation in Christian eyes, since it demonstrates conclusively "... that neither can our kingdom endure them, nor they the kingdom. The attitude of the kingdom toward them is comparable to that of the sea: just as the sea casts corpses upon these shores, so does our kingdom cast them out to the different parts of the world as if they were dead bodies."<sup>278</sup>

Castilla en Africa la reciben, y amparan; solo Portugal la desdeña, y ni en las ocasiones, q̃ sus tesoros inestimables se juzgavan convenientes para ayudar en la defensa natural, pudo acabarse con nuestro Rey que afloxxasse un instante en la entereça, y severidad, con que (como verdadero imitador de David) su zelo atiende a la honra de la casa del Señor." The emphatic assertions of Dom Francisco Manoel de Melo notwithstanding, Portugal, too, has recourse to the services of Jews, whenever necessary. See Panduronga S. S. Pissurlencar, *Agentes da diplomacia portuguesa na Índia (Hindus, muçulmanos, judeus e parses)* (Goa, 1952), pp. 551-564.

<sup>275</sup> Mello, fol. 21<sup>r-v</sup>. A different story is told by Father António Vieira, *Obras inéditas* (Lisboa, 1856), II, 57: "E agora morreu em Amsterdão um pobre velho, que havendo em Portugal saído em um auto, foi lá buscar segurança e remedio; e como os judeus o não quizessem favorecer por confessar publicamente a fé de Christo, sustentava-se o pobre... pescando com uma cana; e disse ao embaixador de Portugal, que por fama o quiz conhecer: Senhor, aqui ando perseguido dos judeus por christão, e em Portugal fui perseguido dos christãos por judeu; mas ainda que na terra me faltam os homens, espero que no ceu me não ha de faltar Deus."

<sup>276</sup> Sousa, fol. 12<sup>v</sup>.

<sup>277</sup> Rebello, fol. 7<sup>v</sup>, and Moreira (1645), p. 21.

<sup>278</sup> *Op. cit.*; fol. 17<sup>v</sup>.



### 3. A PROGRAM FOR DEALING WITH THE JEWISH PROBLEM: SUPPORT OF THE INQUISITION — EXPULSION

Powerful as the governors and kings of Portugal may be, they do not have at their disposal a weapon of their own, suitable for the fight against the enemy from within; they too must rely mainly on the vigilance of the ministers of the Holy Tribunal. The very existence of the kingdom would be at stake were the Inquisition abolished. Ambrosio de Jesu uses a clever word play to drive this point home: "... truly, if there were no Holy Office in this kingdom with such capable ministers, I do not know what would become of Portugal or, to be more correct, I know that Portugal would be no more."<sup>279</sup> At best the kingdom would be a waste land;<sup>280</sup> it seems, however, far more likely that God, incensed by the heresies of the Neo-Christians, would have mercilessly destroyed the country, had not the Holy Tribunal striven to calm divine anger.<sup>281</sup>

The crown too has its strongest pillar in the Inquisition which, next to its ecclesiastic function as bastion of the Faith, also assumes the political task of defending the integrity of the state.<sup>282</sup> A population divided in its religious allegiance is thought of — with disregard for the lessons of the past — as undermining the very foundations of the monarchy; conversely, religious uniformity, called purity, constitutes an infallible guarantee for the stability and the prosperity of the nation.<sup>283</sup>

The interdependence of religious orthodoxy with national triumphs is an axiom for which proofs abound. Surely the re-establishment of Portuguese independence under King John IV (1640) is to be considered a reward from heaven for the enthusiastic support which the new sovereign has lent at all times to the Inquisition.<sup>284</sup> This is an enlightened policy, for a vassal given to idolatry and heresy cannot be a loyal subject of a Catholic monarch. Thus the title *Rey da India* remained meaningless, until the Holy Office, by weeding out disbelievers, had turned obedience to the House of Braganza into something more than legal fiction.<sup>285</sup> The priests are then not exceeding their prerogatives, if they take advantage of the autos-da-fé to remind

<sup>279</sup> *Op. cit.*; fol. 8<sup>r</sup>: "... eu não sey que fora de Portugal, ou sey que já não fora."

<sup>280</sup> Coutinho, fol. 17<sup>v</sup>.

<sup>281</sup> Pinheiro, pp. 32-33.

<sup>282</sup> Mendes de Tavora, fol. 25<sup>v</sup>.

<sup>283</sup> Christovam de Almeida, p. 56.

<sup>284</sup> Moreira (1648), 'd 22.

<sup>285</sup> Areda, fol. 26<sup>v</sup>.

the king and his ministers how great the nation's debt to the Inquisition is.<sup>286</sup> (Such a strengthening of the Holy Office is not to be seen merely as a move beneficial from a political point of view; rather it is in keeping with the functions of the king of Portugal who, like every one of his subjects, has definite obligations toward the Church. The only difference lies in his responsibilities being heavier, since he has been chosen to act as the right arm of the Church.)<sup>287</sup>

While the capacity of the ecclesiastical authorities to cope with the Jewish problem in the long run cannot be questioned, there are some orators who feel that a more immediate and radical solution is preferable. Of course they realize that, as far as temporal affairs are concerned, they can only recommend and suggest, while the ultimate decision must rest with the national government. Nevertheless, they believe it their duty to bring to the attention of the ministers that there is an expedient way of dealing with Judaism: expulsion of the heretics from Portugal.<sup>288</sup> Whether only those already sentenced or also potential offenders should be included in the pertinent law is not stated. Nor do the speakers address themselves to the thorny question where one should send the expellees. "Let them go wherever they wish. As long as they do not remain among us, let them stay wherever they want. Let us here shake them off, and he who wishes to stay clean elsewhere, let him, too, shake them off."<sup>289</sup> That this is *materia de estado* (a concern of the national government) and, therefore, cannot be decided from the pulpit is a flimsy pretext which fails to conceal a thirst for vengeance not to be quelled by the most ruthless persecution.

<sup>286</sup> Gomez, fol. 15<sup>v</sup>.

<sup>287</sup> Sequeira (1642), fol. A<sub>2</sub><sup>r</sup>; Antonio das Chagas, pp. 47-48, and Viegas, p. 11. João de Barros, *Rópica pñefma* . . . (Lisboa, 1532), fol. 62<sup>r</sup>, claims that the Portuguese kings can rightly be called "... nouos apóstolos: pois leuarã o nome de Cristo a ser adorado çelebrado, & louuado de már a már, te os termos da redõdeza das terras . . ."

<sup>288</sup> Manoel dos Anjos (1629), fol. 22<sup>v</sup>. At times official endorsement was given to such proposals. See Fr. Alexandre da Paixão, *op. cit.*; p. 179: "Em 22 de Junho deste anno de 671 [i. e. 1671] sahio hum decreto de S. A. contra os Christãos novos . . . Porquanto tenho resolutio que sejam exterminados os Christãos novos confessos, que sahisssem nos autos da fé desta Corte, Coimbra e Evora . . . Hei por bem que todos assim huns como outros, comprehendidos nos autos passados, e que o forem nos futuros, sejam exterminados com suas familias . . ." Fr. Alexandre da Paixão appends a sober comment: "Não teve effeito a execução desta lei pelos inconvenientes serem maiores que a rezão . . . e foi necessario dissimular com a zizania, por não arrancar o trigo. Ordinariamente desfas a consideração aquellas pragmaticas, que publica o alvoroço."

<sup>289</sup> Moreira (1630), fol. 12<sup>v</sup>. Cf. the anonymous *Decima*, transcribed by Fr.

The progressive decline of Portuguese power during the seventeenth century brings forth, as so often in history, increasingly vociferous demands for the expulsion of a minority chosen as the scapegoat for all national ills. To a people dreaming of its glorious past, and yet mindful of its present calamities, Father Joseph de Oliveyra points out a "modern" panacea that once more will lead the nation to the zenith of its power:

It seems that the Prophet Isaiah, in his prophecy, was talking to Portugal: *Educ foras populum caecum*: Cast this blind people out, oh Portugal, from your native shores and your overseas possessions, chastise them with extermination. By means of their extermination it is given to Portugal to secure the fulfillment of the happy promise, made by Christ Crucified on the battlefield of Ourique, that she will be an Empire: *Volo in te, & in semine tuo mihi imperium stabilire*.<sup>290</sup>

### *Actum Est Contra Iudaeos*

#### (Conclusions)

Peninsular anti-Semitism may not be traced only to ecclesiastic agitation for its origin. Hatred of the Jews was so firmly entrenched in the popular mind that it required very little stirring, and there may be even a grain of truth in the claims of the apologists for the Inquisition that this "legalized" repression often forestalled the terrors of mob violence.<sup>291</sup> One can, however, scarcely underestimate the rôle of the Church in preserving at the highest level of intensity the already powerful prejudices of the masses. The sermons preached at autos-da-fé — in particular those which later circulated in book form — went a long way toward spurring the campaign of hatred and degradation.

Alexandre da Paixão, *op. cit.*; p. 166: "Se Christo lança aos que vendem / No templo sancto de Deos; / Onde hão de parar Iudeus, / Que mais gravemente o offendem? / Ah Senhor! Daqui dependem, / Ou muitos bens, ou hum mal, / Vá-se esta turba infernal / Por esses mares além, / Porque a Deos, e a nós convêm, / Não ficar em Portugal."

<sup>290</sup> *Op. cit.* (1691), pp. 40-41.

<sup>291</sup> See, for example, Bernardino Llorca, *op. cit.*; pp. 80-81: "... fueron bastante numerosos los relajados por la Inquisición en sus diversos tribunales. Ciertamente no creemos equivocarnos si decimos que en conjunto pasan de los 10.000 y se acercan a los 15.000. Los que se asombran al leer estos números, tengan presente... las frecuentes hecatombes de judíos y conversos que tuvieron lugar en los siglos XIV y XV y costaron la vida a muchos millares de personas; mas con la introducción de la Inquisición desaparecieron por completo..."

The *padres* were accomplished propagandists. Their technique is best described by the brilliant phrase with which James Parkes characterized the patristic diatribes of the fourth century: "The Fathers obtained the perspective of a distorting mirror and drew faithfully what they saw."<sup>292</sup> Like their patristic models whom they followed closely, the Portuguese avoid as a rule references to specific persons or incidents. The object of their attacks is a nebulous, vast social entity, vaguely defined as *Os Judeus*. But in this ambiguity lies the strength of their broadside, for, by virtue of this generalization, their speeches become dragnets of defamation from which there is no escape for anyone defiled by Jewish blood.

Such was the anti-Jewish zeal of the Portuguese priests, however, that they went far beyond the limits which the Early Church Fathers had set for their censures. Patristic authors dealt exclusively with the evils wrought by the Jews of Biblical times; the doings of their Jewish contemporaries did not merit their attention. For the Lusitanian fathers such a partial presentation of Jewish wickedness would have amounted to dereliction in their duty. Their aim was to show that there is no difference between those who danced around the Golden Calf in the desert and their descendants who on Fridays polish their candlesticks in Coimbra. Murderers of Christ in Jerusalem or desecrators of the Host in Evora, they are one and the same and worthy only of utmost contempt and severe punishment. The sermons offer a short history of Jewry which, according to the priests, has invariably retained throughout the centuries two essential characteristics: a defiance of God and an irrepressible enmity toward all non-Jews.

Since professing Jews had been expelled from Portugal in 1507, the fathers' anti-Jewish wrath had to be vented against the next-best substitute, the Marranos. That many of them may have clung to Judaism is less significant than the fact that their origin (*sangue*) rather than their actions became *prima-facie* evidence of heresy. This approach to the *Conversos* constituted a resolute espousal of racialism and, as a result, national, social, and economic considerations tended to balance religious motives in the attack against Jewry. Regardless of whether they speak for the Church or for their nation, the fathers evince no interest in a *positive* solution to the Jewish question. As victims of their own propaganda which has built up an imaginary enemy to frightening proportions, they are only able to think in

<sup>292</sup> *The conflict of the Church and the Synagogue. A study in the origins of anti-Semitism* (London, 1934), p. 158.

terms of preventive measures, expulsion or even extermination. Their anti-Semitic frenzy, by depriving them of the last vestiges of evangelical fervor, must have seriously diminished their usefulness as servants of Christ. By the same token, they also frequently failed in discharging their duties toward the nation which looked to them for leadership; they contented themselves with being the acclaimed spokesmen for the rabble.

The assertion of the bibliographer Innocencio Francisco da Silva that these sermons are "... monuments of the wisdom and learning of our theological polemicists..."<sup>293</sup> has, for the modern reader, an ironic ring. The priests' knowledge of Judaism was as sound as their sources, a circumstance which, together with their personal prejudices, accounts for the intensity of their anti-Jewish virulence. If European anti-Semitism had lost none of its strength in the seventeenth century, one would scarcely be justified in singling out the Portuguese clergy as propagators of a fanatic racialism. But precisely in this period the long overdue reaction against intolerance sets in and the philo-Semitic stand of Protestant hebraists prepares European public opinion for the changes in the status of the Jews which, a century later, culminate in their emancipation.<sup>294</sup>

For the admirer of Lusitanian culture it is disheartening to see that Portugal remained at the margin of this humanitarian movement. While other countries strove to undo the wrongs of centuries of oppression, Portugal, turning away from toleration, wrote new and glowing chapters for an apotheosis of the Inquisition. This determined adherence to discarded values — a partial manifestation of a national decadence — finds impassioned expression in the anti-Semitic rantings of the Portuguese clergy.

<sup>293</sup> *Diccionario Bibliographico Portuguez* (Lisboa, 1858), I, 4.

<sup>294</sup> Hans Joachim Schoeps, *Philosemitismus im Barock. Religions- und geistesgeschichtliche Untersuchungen* (Tübingen, 1952), pp. 67 and 134.





## THE ORIGIN OF THE RITUAL IMPLEMENTS FOR THE SABBATH

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DR. Jacob Z. Lauterbach, an eminent authority on Jewish religious usages, devoted attention, among other things, to the ceremonials connected with the Sabbath. In a lengthy contribution to the *Hebrew Union College Annual*,<sup>1</sup> Dr. Lauterbach treats the practice of savoring aromatic plants and spices as the Sabbath comes to an end; while a study among Lauterbach's writings published posthumously,<sup>2</sup> deals with the kindling of lights as the seventh day begins. In neither of these articles is the question raised concerning the implements or concerning the changes which these implements developed in the course of the centuries. This casts no reflection upon the learned author. His manner of treating the subject was the one common at the time. That tendency was superseded only after the study of Jewish art, the youngest offspring of the Science of Judaism, had acquired some standing. We do not correct, we merely amplify, Lauterbach's researches, if we attempt to answer questions such as these: How did those Sabbath implements look? When did they originate and, with the lapse of the ages, what changes did they undergo? Deriving our examples preferably from the works of art in the Museum of the Hebrew Union College - Jewish Institute of Religion at Cincinnati hardly calls for an apology.

### I. ANTIQUITY

The earliest mention of Sabbath implements is to be found in the Roman satirist Persius (34-62 C. E.) who wrote at a time when the last of the Temples at Jerusalem still existed. In his "Fifth Satire," the poet enumerates various instances of moral slavery; moral slavery

<sup>1</sup> "The Origin and Development of Two Sabbath Ceremonies," *HUCA*, XV, 1940, pp. 367-424.

<sup>2</sup> Appearing under the title, "The Sabbath," in *Rabbinical Essays* by Jacob Z. Lauterbach, Cincinnati, 1951, pp. 437-472.

being, with him, worse than physical slavery. He adduces as illustration (verses 179-184):

. . . . . At cum

Herodis venere dies unctaque fenestra  
 Dispositae pinguem nebulam vomuere lucernae  
 Portantes violas, rubrumque amplexa catinum  
 Cauda natat thunni, tumet alba fidelia vino,  
 Labra moves tacitus recutitaque sabbata palles.

Translated this reads:

But when Herod's days are come, and the lamps, carrying violets, put in the greasy windows, emit their unctuous clouds of smoke; and when the tail of a tuna fish floats curled round in a red dish, and the white jar is bulging with wine, you move your lips in silence and turn pale at the circumscribed Sabbath.

As we perceive from the conclusion of these verses, by "Herod's Day" is meant the Sabbath.<sup>3</sup> The poet jeers at the Sabbath custom of placing lamps in the windows. Today when we speak of Sabbath lights, we think of such as illuminate dwellings on the inside. But it was obviously a more ancient practice to turn the lights toward the street, doubtless to betoken joy, as in the case of the earliest Hanukkah lights which, in like manner, brightened Jewish cities or city quarters.

How many were the lights utilized in any one house? The opinion occurs that the number of such lights was two. This number is based upon the fact that the average domicile contained a living room and a bedroom, and that a light was needed for each.<sup>4</sup> And yet, mention of two lamps or lights occurs nowhere in antiquity. To the contrary, the notion existed that the larger the number of the lights the greater the merit. Such is the point to the account in Sabbath 23b: "When Rab Huna (third century C. E.) passed the door of Rabbi Abin on a Friday evening and noticed the numerous lamps, he prophesied that great scholars would issue from that house."

For us, the main question is: What was the appearance of those Friday evening lamps? Persius reports that these lamps stood at the windows and that they carried violets.<sup>5</sup> This description tallies

<sup>3</sup> I do not understand how Hermann Vogelstein and Paul Riegner get to apply these verses to the Day of the Temple Dedication in their *Geschichte der Juden in Rom*, I, Berlin, 1951, p. 8.

<sup>4</sup> Thus Abraham E. Millgram, *Sabbath, the Day of Delight*, Philadelphia, 1944, p. 15. He is followed by Stephen S. Kayser in the Introduction to Kayser-Schoenberger, *Jewish Ceremonial Art*, Philadelphia, 1955, p. 14.

<sup>5</sup> E. R. Goodenough, in *Jewish Symbols in the Greco-Roman Period*, I, New York, 1952, p. 36, translates "unctaque fenestra . . . lucernae portantes violas" with

with the fact that lamps of clay were, at that time, the vogue in the entire Mediterranean area and that such lamps were suited to the window because of their smallness. Such lamps, covered on top, except for a round opening through which to pour the oil, were also adapted to having upon them violets. Incidentally there has been found in Africa a lamp which answers Persius' description (see our illustration).



a) ANTIQUE JEWISH LAMP, UNEARTHED NEAR CARTHAGE, AFRICA. Clay. Taken from Erwin R. Goodenough, *Jewish Symbols in the Greco-Roman Period*, III, fig. 956.

On this lamp, violet petals in relief were substituted for actual violets, not always obtainable. An additional feature distinguishes this lamp as an implement of religion: the cover holds a representation of the seven-branched candelabrum. The Sabbath light accordingly brought to mind the sacred lights which once glowed in the Tent of Meeting and in the Temple, and thus expresses the hope, particularly vital on the Sabbath, that the Messiah might appear and revive the ancient shrines.

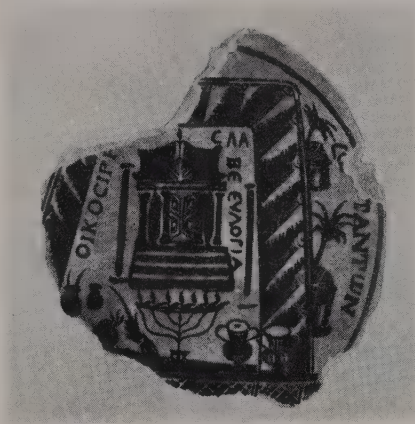
We perceive further, from the verses of Persius, that the fish, especially favored as a Sabbath viand, was served in a red dish. This refers to the unbaked red clay of the vessels which the entire populace, and not merely the Jewish populace, used for holding food.<sup>6</sup> The satirist also mentions the white jar bulging with wine. This also could have been a clay vessel, glazed and curving outward.

In the Roman catacombs there have been found gold-glasses, so-called because the bottom designs were of gold leaf. Surely these

"the lamps, put in the greasy windows, along with violets." But that fails to give the precise meaning.

<sup>6</sup> Compare the article "Kochkunst" in Pauly-Wissowa, *Realencyclopaedie der classischen Altertumswissenschaft*, col. 981.

objects were intended not only for the dead. An inscription, for example, as "Drink, live happily," bespeaks someone's use of the object during his lifetime. One of the designs represents a bowl of fish. This has been correctly understood as an allusion to the Sabbath meal. Another glass-bottom, here illustrated, pictures the Temple,



b) BOTTOM OF AN ANTIQUE GOLD-GLASS. Rome, Vatican.

again a Messianic symbol, with the inscription, as reconstructed: "Take the eulogy with all who are thine." This indicates a wine-filled cup which, after the blessing was pronounced, passed from mouth to mouth.<sup>7</sup> We may therefore reckon these "gold-glasses" among the ancient implements for Sabbath beautification.

A clay jar (New York Jewish Museum) with the inscription ΕΤΛΟΓΙΑ has been regarded by Goodenough as a jar in which the Sabbath wine was brought to the table,<sup>8</sup> but the jar is, in my opinion, too small for having served this purpose.

## II. MIDDLE AGES

In the Middle Ages gold-glasses were no longer in style. What was the material of the Sabbath winecups and what were their shapes? In Spain, where the Jews had attained great wealth, it is likely that

<sup>7</sup> Cf. Hans Lietzmann, *Messe und Herrenmahl*, Bonn, 1926, p. 209; H. Lietzmann and W. Bayer, *Die juedische Katakomben der Villa Torlonia in Rom*, Berlin and Leipzig, 1930, p. 22 f; E. R. Goodenough, *Jewish Symbols* etc., II, 1953, pp. 108 ff. A colored illustration is provided by Rachel Wischnitzer-Bernstein, *Symbole und Gestalten der juedischen Kunst*, Berlin-Schoeneberg, 1935, plate V.

<sup>8</sup> Cf. E. R. Goodenough, *op. cit.* II, 1953, p. 116 and III, 1953, fig. 979.



such cups were of gold. We perceive such cups in representations of the *Seder*-meal contained in fourteenth century *Haggadahs* (London, British Museum, Or. 2884 and Add 14761).<sup>9</sup> In these cups we detect no particular design. The same applies, no doubt, to the cups of Middle and Eastern Europe. The importance of the day is emphasized by the fact that the cups are of precious metal, while their Jewish significance is indicated by a Hebrew inscription as, for instance, "Remember the Sabbath day, to keep it holy."

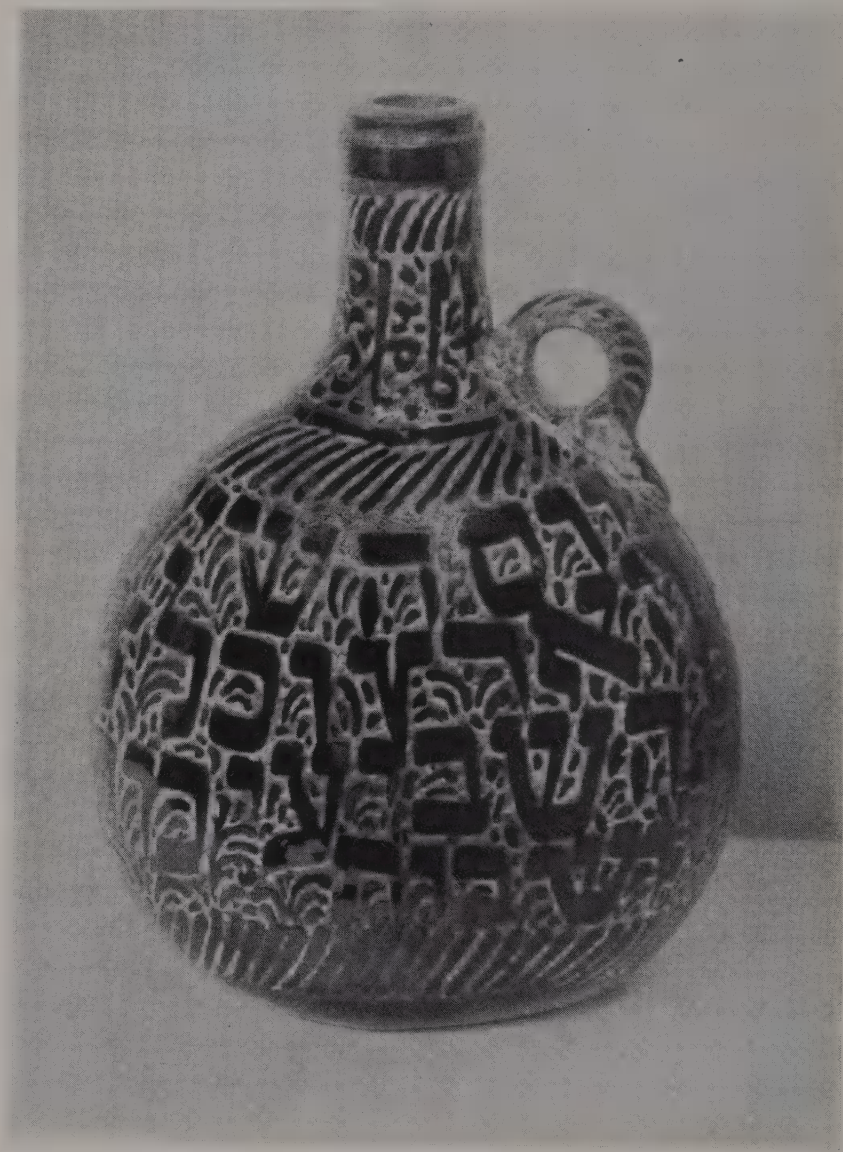
It is similar with the jars for the wine of the *Kiddush*. In the aforementioned representations of the *Seder*-meal we discern golden flasks which might also have been for Sabbath use. These differ from other jars only in the preciousness of their material.

This makes especially interesting a Sabbath jar of dark red glass kept in the Museum of the Hebrew Union College - Jewish Institute of Religion at Cincinnati, a jar whose identification with the Sabbath is brought out most distinctly (illustrated on p. 392). This jar comes from an Islamic community, from Asia Minor or North Africa, as shown by the Arabic letters at the jar's neck.<sup>10</sup> The rest of the surface is entirely covered with Hebrew letters cut into the thick glass and swathed in ornamentation. We make out the words recited on Friday evenings, the words, "And the heaven and the earth were finished." Such an able palaeographer as Prof. Isaiah Sonne assured me that the inscription cannot date from a period earlier than the seventeenth or eighteenth century. And yet, when we consider the conservatism of the Orient, we can surmise that similar flasks may have existed even in the Middle Ages.

We return now to the Sabbath lamps. What structure did these assume in medieval times? From the illustration on page 389 we perceive what their structure was in antiquity. We need only add that, in the same period, there also existed lamps with more than one wick, and that these may have likewise been for Sabbath use. We can distinguish two types. One type had the wick-nozzles standing in a straight row. From this type developed the Hanukkah lamp with the rigid back, needed for fastening to the doorpost. In the other type the nozzles encircled an open flat center filled with oil. Later these lamps were supplied with a lid to keep the oil from spilling. It was, however, the open type, shown to exist already in Iron Age I (see

<sup>9</sup> To be noticed in this connection is the colored reproduction in the *Encyclopaedia Judaica*, VII, frontispiece.

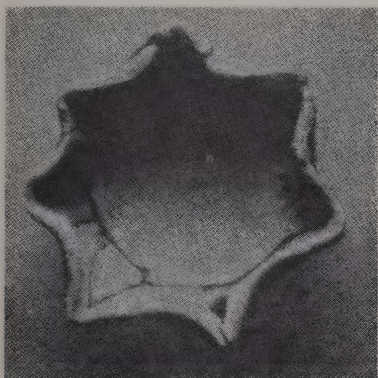
<sup>10</sup> A similar piece is to be found in the collection of Charles Feinberg of Detroit.



c) ORIENTAL JAR FOR THE SABBATH WINE. Glass.

Museum of the Hebrew Union College - Jewish Institute of Religion.

our illustration), that developed into a lamp for the Sabbath. The



d) CLAY LAMP FROM  
IRON AGE I.

only thing needed was to make such lamps not of clay but of metal and to put a shaft in the middle or sometimes to fasten chains around the edges. The result was a hanging lamp which, when lighted, was suggestive of a star, thus generating a religious mood.

Of course, such a lamp could not be placed at the window to shine into the outdoors. It goes without saying that, in the Middle Ages, when surrounded by hostile neighbors, the Jews had to forego that display. A lamp had to suffice which illuminated that part of the dwelling where the family partook of the Friday evening meal.

As an example of such a lamp, we show one which originated in Italy of the seventeenth or eighteenth century. Here, while the center bowl is deepened, the structure, on the whole, resembles that of the ancient lamp pictured above. The accompanying drip-bowl and the four richly jointed chains converging into a top-piece achieve the gracious harmony so characteristic of Italian works of art.<sup>11</sup>

From Italy, where such lamps must have existed in early times, their use spread into Holland<sup>12</sup> and England,<sup>13</sup> only with the difference that, in these two lands, the Sabbath lamp was equipped not with chains but with a shaft.

In the Ashkenazic countries it was otherwise. Here also the ancient

<sup>11</sup> An Italian hanging lamp of similar type, belonging to the sixteenth century, can be seen in the Kayser-Schoenberger publication, *Jewish Ceremonial Art*, Philadelphia, 1955, illust. 68.

<sup>12</sup> Copied in Bernard Picart, *Cérémonies et coutumes religieuses de tous les peuples du monde*, I, Amsterdam, 1723. A second lamp, also coming from Holland, is pictured in S. Ph. de Vries, *Joodsche Riten en Symbolen*, I, Zutphen, 1938, facing p. 98.

<sup>13</sup> Cecil Roth furnishes an illustration in "The Art of Abraham Lopes d'Oliveira" in *Le Judaïsme Sephardi*, N. S. No. 5, London, 1954, p. 203.



e) ITALIAN BRASS SABBATH LAMP. 17th-18th Century.  
Museum of the Hebrew Union College - Jewish Institute of Religion.

circular lamp is the starting point, but there is no central bowl. Instead of this, the edges expand into separate oil-holding prongs. This makes the star shape all the more pronounced.

In spite of this structure that meant so much to the Jews, the earliest lamps of this kind appeared among the Christians. The oldest ones known to us, originating as early as the twelfth century, have been preserved in the cathedral at Erfurt, Germany,<sup>14</sup> and in the domains of France. Of the latter, we show here a picture. These



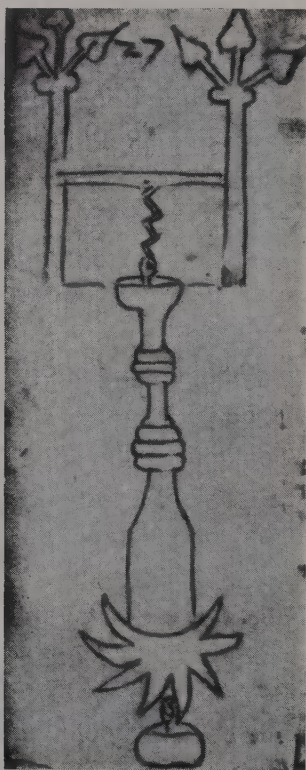
f) CHRISTIAN 12th CENTURY BRONZE LAMP WITH BIBLICAL SCENES.  
Formerly in a private collection at Dijon, France.

<sup>14</sup> Illustration in *Reallexikon zur Deutschen Kunstgeschichte*, I, Stuttgart, 1937, col. 653. In "A Silver Lamp from Frankfort-on-the-Main," in *Essays in Honor of*



lamps, made of bronze, surround a cylindrical trunk decked with scenes from the Old Testament. Those scenes led to regarding these lamps as Jewish.<sup>15</sup> But would Jews have tolerated such representations in an age when the biblical prohibition of images was heeded with utmost severity? We must concede that the star-lamp appears first among the Christians. The conclusion is nonetheless valid that it was the Jews who transferred the lamp to the home and vested it with Sabbath sanctity.

We gain a good idea of such a star-lamp from a drawing in a *Maḥzor* of the Vatican Library in Rome (Cod. ebr. 324, fol. 27a).



g) JEWISH SABBATH LAMP.

Drawing from a *Maḥzor* in Rome, Vatican Library, Cod. ebr. 324.  
Around 1400.

*Georg Swarzenski*, Chicago, 1952, p. 196, note 23, Guido Schoenberger doubts the old age of the oil container but not that of the shaft.

<sup>15</sup> Thus Didron in the *Annales Archéologiques*, IV, Paris, 1846, p. 149.

This *Mahzor* is part of a manuscript compilation which goes back to the end of the fourteenth century.<sup>16</sup> The drawing, when published,<sup>17</sup> was placed upside down. We show it here in its correct position. That clumsy sketch should not lead us astray. What we doubtless have here is a star-lamp with a drip-bowl, the lamp, fastened to a shaft, hanging from the ceiling.

At the time this lamp originated, the Sabbath star must have been a familiar ritual object in Ashkenazic families. Israel Isserlin, the great Talmudic authority of the fifteenth century, in one of his responsa, speaking of round lamps for Sabbath lighting (פמטות), notes that such are to be found in all the better Jewish homes.<sup>18</sup> To this medieval quotation may be added one from the early eighteenth century: "The lamps are of brass and carry four, six, and even eight nozzles with wicks. It may well be that even the poorest among the Jews have such lamps for the Sabbath."<sup>19</sup>

Meanwhile, brass did not always suffice. When circumstances permitted, the material got to be costly silver. Of such a lamp, fashioned in 1540, we learn from a German goldsmith book of the sixteenth century.<sup>20</sup> The fact that this lamp goes by the name *Judenstern* (Jewish star) proves how such a lamp has become an object of exclusively Jewish usage. At this early date already, non-Jews preferred the hanging lamp with its more brightly burning candles.

No silver lamp of the sixteenth century has come down to us. But a few have been preserved from the seventeenth century,<sup>21</sup> and some years ago the Jewish Museum at Cincinnati was fortunate enough to acquire one (Plate 1). This lamp stresses its star shape by means of no fewer than ten prongs which surround a lion's head on the

<sup>16</sup> *Bibliothecae Apostolicae Vaticanae Codicum Manuscriptorum Catalogus*, I, Roma, 1756, p. 308.

<sup>17</sup> Ernst Munkacsi, *Illuminated Manuscripts in Italian Libraries* (Hungarian), Budapest, n. d., ill. 36.

<sup>18</sup> Cf. *Terumath Ha-Deshen*, ed. Venice, 1546, p. 48a. A Sabbath lamp, unearthed near Deutz in the Rhineland and belonging to Mr. Siegfried Strauss of Brooklyn, is regarded by its owner as a product of the fourteenth century. But a similar lamp, attributed to the seventeenth century, is illustrated in H. R. d'Allemagne, *Histoire de luminaire depuis l'époque romaine jusqu'au 19e siècle*, Paris 1891, p. 279.

<sup>19</sup> G. J. Schudt, *Juedische Merckwuerdigkeiten der zu Frankfurt am Mayn wohnenden Juden*, Leipzig, 1714 ff., Book VI, Chap. 34.

<sup>20</sup> This is the so-called *Master Book of the Goldsmiths* at Frankfort-on-the-Main. Cf. Hermann Gundersheimer and Guido Schoenberger in the *Notizblatt der Gesellschaft zur Erforschung juedischer Kunstdenkmäler*, No. 34, 1937.

<sup>21</sup> Compare the essay of Guido Schoenberger, "A Silver Sabbath Lamp" etc. pp. 189 ff.

lower side (see our illustration). Similar lions' heads are attached to the lower side of the ascending shaft, and this develops into the tower of a fortress with latticed windows, some of them four-cornered and some round, obviously an allusion to II Sam. 22.51, "A tower of



h) BOTTOM VIEW OF A GERMAN 17th CENTURY SILVER SABBATH LAMP.

Museum of the Hebrew Union College - Jewish Institute of Religion.

salvation is He to His king; and showeth mercy to His anointed, to David and his seed for evermore." Since, with David, this utterance associates a tower, the artist — or was it perhaps the patron who engaged the artist? — thinks of a tower of David mentioned in Cant. 4.4, "Thy neck is like the tower of David builded with turrets, whereon there hang a thousand shields." To the tower, some circular shields are accordingly added.

This lamp of ours shows, as craftsman's mark, a V and, in the opening of the V, an S. Those are probably the initials of the goldsmith, Valentin Schueler of Frankfort on-the-Main who, in 1666, entered the employ of Jacob Rapp and who, taking over his employer's workshop upon his employer's death (1670), retained the shop at least until 1681.<sup>22</sup> Because of the lamp's comparative plainness, I am inclined to reckon it among Schueler's earlier products. In the Jewish Museum at New York, two lamps which carry the same marking are more richly embellished; they are adorned with small figures.<sup>23</sup>

Of course only a Jew of means could indulge himself such a lamp. Most people had to content themselves with cheaper material such as brass. But this "popular edition," which has survived to our own day, had the compensatory advantage of being produced by Jewish copper-smiths; and there were a goodly number of such in Eastern Europe. For these less expensive lamps, we can offer a fine sample, also from the Museum of the Hebrew Union College - Jewish Institute of Religion (Plate 2). Judging from its heavy style, it belongs to the beginning of the eighteenth century. Over the "star" for the oil, there is attached an upper row of sockets for the candles.<sup>24</sup> Possibly, out of reverence for that ultra-ancient burning material, oil only was used for Friday evening illumination. However, it is also possible that the oil light proved too meager and that candles afforded necessary supplementation.

This brings us to the question: How was it with Sabbath candles in ancient times? Candles are known to have existed in the earliest epochs.<sup>25</sup> But how was it among the Jews? I put this question to my

<sup>22</sup> G. Schoenberger, *op. cit.* p. 190, note 7.

<sup>23</sup> A lamp resembling ours, but made of copper, is to be found in the collection of Viktor Klagsbald, Paris. Cf. the catalogue of the exhibit, "Art Religieux Juif," in Musée d'Art Juif, in Paris, Paris 1956, No. 39, with illustration on p. 32. The lamp has eight oil containers and has consequently been regarded as a Hanukkah lamp. In my opinion, it is a Sabbath lamp.

<sup>24</sup> Similar lamps, with oil chambers below and candles above can be seen in Moritz Oppenheim, *Bilder aus dem Altjuedischen Familien-Leben*, Frankfort-on-the-Main, 1866.

<sup>25</sup> Cf. A. S. Harrison, "Fire-Making, Fuel and Lighting," in *A History*

colleague, Prof. Alexander Guttman. I cull, from Dr. Guttman's kind reply, that already the Talmud (Sab. 20b) permits wax for the lamp wick, which Rashi interprets to the effect that the wax for the wick refers to a candle. Candles were accordingly permitted. Alfasi, R. Nissin, and Caro similarly permit them. By contrast, the Babylonian authorities like Sherira Gaon and his son, Hai, express themselves as opposed to the use of wax candles on the Sabbath. In other words, there existed a theoretical difference of opinion. So far as practice was concerned, we hear from R. Asher ben Yechiel (1250-1328) that candles were burned in France and in Germany.

This evidences the use of candles in the Middle Ages. But, as regards the manner of their use, we are uninformed until we reach the year 1500. For that period we learn from the illuminated picture here reproduced. This picture comes from the famous prayer book of



i) SABBATH LAMP WITH TWO CANDLES.

Illumination from the famous Prayer Book of Baron Rothschild.  
Italian, around 1500.

*of Technology*, ed. Ch. Singer, E. J. Holmjad, A. R. Hall, I, Oxford, 1954, pp. 216 ff. and p. 234.



Baron Rothschild which includes the *Haggadah* for Passover. Here is to be seen the *pater familias* sitting at a table on which stands a candlestick with two lights. This pertains to the Seder, the head of the household being in the act of raising the fourth cup. Yet there is little doubt that a similar candlestick was used on Friday evenings.<sup>26</sup> Its structure is, by no means, an invention of the book-illuminator's phantasy. The picture reproduces an actual candlestick. Such a candlestick, made of bronze, is on display, as a piece of fifteenth century German craftsmanship, in the Museum for Arts and Crafts in Frankfort-on-the-Main (see our illustration). Obviously some of those pieces reached Italy, and there the Jews put them to religious use.



j) CANDLESTICK FOR PRIVATE USE. Bronze. 15th Century. Germany.

Frankfort-on-the-Main, Museum for Arts and Crafts.

Taken from Walter Dexel, *Deutsches Handwerksgut*, Berlin, 1939.

<sup>26</sup> It is regarded as a Sabbath candlestick also by Rachel Wischnitzer-Bernstein in her essay, "The Sabbath in Art" in the collection, *Sabbath, the Day of Delight*, Philadelphia, 1944, p. 326.

Obviously such candlesticks penetrated also to Eastern Europe where they led to the practice of having combined candle lights on Friday evenings. When the Hungarian Rabbi Isaac Turnau (14th–15th century), says that “on Friday nights one kindles two lights,”<sup>27</sup> he refers either to two single candlesticks or to such a double candleholder. A hanging lamp cannot be meant because, in such lamps, the lights numbered not two but more than two.

The candle combinations occasionally underwent change. For example, among the Jews of Poland, the number of branches on the candlesticks increased to three, four or five. The stretch between the foot and the socket became adorned with lions, the escutcheon figure of Judah or, as in our illustration, with stags in allusion to Ps. 42.2, “As the stag panteth after the water brooks, so panteth my soul after Thee, O God.” And the manner in which these animals are interwoven with tendrils answers to a type of artistry associated with the Jews of Eastern Europe. That same artistry appears on Jewish tombstones and on the so-called *Mizrach* placards that indicated the eastward direction, toward Jerusalem, which had to be faced in prayer. This amounted not merely to an adoption of alien elements but also to their transformation both in form and in content. It were superfluous to add that such Sabbath candlesticks issued from Jewish workshops.

### III. MODERN TIMES

Our consideration of Sabbath hanging-lamps and Sabbath candles brought us far beyond the Middle Ages. But the first appearance of these objects dates back to the Middle Ages, hence our need of treating them in that connection. It is otherwise with the spice-box used at Sabbath-end. This box is modern. The Talmud (Sab. 33b) relates that, late one Friday afternoon, an aged man was seen hastening with two bunches of myrtle which were to be used in honoring the Sabbath. The myrtle was probably savored while held in the bare hand. And that seems to have remained the usage for centuries. Jacob ben Moses Moelln (Maharil), who lived in Germany about 1400, describes the practice in these words: “He (the head of the family) takes the cup in his right hand and the myrtle in his left.”<sup>28</sup> This can only mean that the myrtle was, in a literal sense, held. For earlier times there is

<sup>27</sup> *Minhagim Le-Kol Ha-Shanah*, Venice, 1616, fol. 7b. For the reference to this passage as well as to various other sources pertaining to the Sabbath, I am indebted to Dr. Jakob Petuchowski of Cincinnati.

<sup>28</sup> *Sefer Maharil*, ed. Polonoye, 1802, fol. 19d.



k) POLISH BRASS SABBATH CANDELABRA. 18th Century.  
Museum of the Hebrew Union College - Jewish Institute of Religion.

mention of a container but not of a closed box. A Rabbi Ephraim, perhaps Rabbi Ephraim ben Jacob of Bonn, who lived in the twelfth century, is said to have regarded a variety of spices as preferable to a single spice and to have preserved his spices in a glass.<sup>29</sup> It was the use of a number of spices in combination that created the need of keeping them together in some kind of holder. There is extant an illustration of such a receptacle in the form of a goblet. The illustration stands in a German-Jewish *Minhagim* book which appeared at Mantua in 1590, and again at Venice in 1593, and once more at Venice in 1601. The illustration of a *Habdalah* service<sup>30</sup> which we give here was, though taken from the third edition, doubtless copied from the previous editions. The picture shows a couple with four children. The *pater familias* holds a wine cup in his left hand, while the boy standing in front of him holds a candle. It follows that another boy, standing behind that first boy, has, in his goblet, some spices which he holds in such wise that these also may receive the benediction. Reference to these spices occurs in the underlying text which speaks of "schmecken" the spices. In Old German, "schmecken" applies not only to pleasant tastes but also to pleasant odors.

Nonetheless the tower-shaped *Besamin* box appeared in Germany somewhat earlier. How much earlier? Madam Wischnitzer-Bernstein believes such a box to be discernible in the *Second Nuremberg Haggadah*, a German-Jewish manuscript of the late fifteenth century.<sup>31</sup> But the airy structure here, within which someone is sitting, resembles a tabernacle rather than a spicebox. In the anti-Semitic, though highly instructive lampoon, "Der Gantz Juedisch Glaub," which dates from 1530, the passage occurs (C. fol. 2b), "They have moreover a silver gem (Kleinot) which contains many good spices." These words speak not about the shape of the object but about its material. Two years later, 1532, a book which we have already mentioned, namely the goldsmith book of Frankfort-on-the-Main, records the item: "meister Steffan Altman, ein hedes<sup>32</sup> Rauchfass, wiget 19 lot." To the word *Rauchfass*, the editors add the word *Besomimturm* (spice-tower). But the word *Rauchfass* (censer) would be evidence against rather than

<sup>29</sup> Cf. the 'Or Zaru'a by Isaac b. Moses of Vienna, ed. Zhitomir, 1862, Vol. II, § 92. Also in the *Tashbaz* by Samson bar Zadok, ed. Warsaw, 1875, § 86.

<sup>30</sup> For this information as well as for the illustration, I am indebted to Dr. Ernst Namenyi, of Paris.

<sup>31</sup> Compare her book, *Gestalten und Symbole der Juedischen Kunst*, Berlin-Schoeneberg, 1935, p. 109.

<sup>32</sup> *Hedes*, or rather *Hadas*, the Hebrew word for myrtle, evidently applies here to other spices as well as to the container in which they were kept.

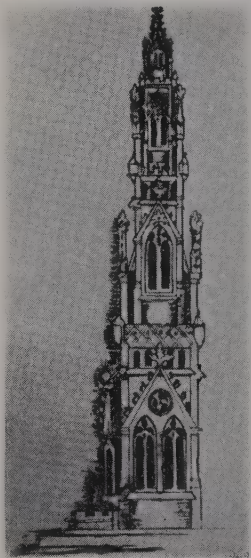






evidence for the supposition that the object referred to was tower-shaped.

We can be certain of such a tower shape in a sketch dating from 1553 and here illustrated. The outline is by the Frankfort goldsmith



m) SKETCH FOR A SPICE TOWER, by the silversmith Heinrich Heidelberger in 1553.

Heinrich Heidelberger. The Jewish person who let the order wished a receptacle of the kind that was owned by his father.<sup>33</sup> Accordingly we can somewhat push back the date for the tower-shaped container. We can fix the date as falling within the first half of the sixteenth century.

We proceed now to ask: Why the choice of such a shape as that of a tower? "In medieval times," so runs the answer, "in Western countries spices were very precious and therefore kept in the tower of the city fortification, which makes it understandable that the medieval tower was reproduced for the spice container in the European West."<sup>34</sup> On our silver Sabbath lamp (Plate 1) we noticed a fortress tower with its latticed windows. Not more than a glance at the design of our spice-tower is needed to make us realize the great difference between this spice-tower and the fortress tower on the lamp. The spice-box has nothing that suggests a fortress. It is a many-sectioned edifice with many large windows which would sooner attract cannonading than ward it off.

<sup>33</sup> Cf. G. Schoenberger in the essay already mentioned, "A Silver Lamp from Frankfort-on-the-Main," p. 190, note 8.

<sup>34</sup> Cf. Stephen S. Kayser in *Jewish Ceremonial Art*, p. 89.

Other spice-boxes of the sixteenth century, like the one here portrayed (Plate 3), have the structure of a townhall-tower, with its prison cell, its large clock, and its weather vanes, not at all appropriate to the tower of a stronghold.<sup>34a</sup>

Another explanation of the tower shape traces it to Cant. 5.13, "His cheeks are as a bed of spices, as towers (מגדלות) of perfumes."<sup>35</sup> That sounds more persuasive. We must, however, bear in mind that such tower shapes appear for the first time in the art of the Christians, among sculptures and pictures of the Three Kings who, besides offering gold to the child Jesus, also offer incense and myrrh, that is to say, substances yielding pleasant odors. We portray, on page 408, the detail in a German picture of the fifteenth century, a picture which shows two of the three rulers.<sup>36</sup> From such works of art, the Christian goldsmiths may have derived their incentive. Whether the painters and the sculptors may also have had in mind the spice-towers of the Bible, we do not know. When the Jews gave orders for such spice-towers, they assuredly thought of the passage in Canticles.

If the earliest spice-towers followed the style of the Gothic, and those of the later sixteenth century the style of the Renaissance, of which our townhall-tower box is an example, the spice-towers of the seventeenth and the eighteenth centuries acquired the vividness and the splendor of the Baroque. On the twenty-two inch spice-box in the Museum of the Hebrew Union College-Jewish Institute of Religion (Plate 4), the foot of the tower swings vividly. Over this base there rise two stories whose glittering filigree is animated by patches of color for doors and windows. A knob tops the bulb-shaped roof and, over the weather vane, stands the figure of a Jew.

The absence of a maker's mark indicates a Jewish artificer, while the filigree and the form of a caftan wearing Jew points to Polish origin. Though in Germany, for such spice-towers, the Jews resorted to Christian silversmiths, in Eastern Europe — Poland, Moravia, Bohemia — Jews employed silversmiths of their own faith expert at such work.

And these Jewish silversmiths, with their endless phantasy, did

<sup>34a</sup> The four bronze arquebusiers on the surrounding balcony are regarded by Rudolf Hallo as a later addition in *Judaica, Juedische Kunst in Hessen und Nassau*, Marburg 1932, text to plate 19a.

<sup>35</sup> See Rachel Wischnitzer-Bernstein, *Symbole und Gestalten der Juedischen Kunst*, Berlin-Schoeneberg, 1935, p. 107.

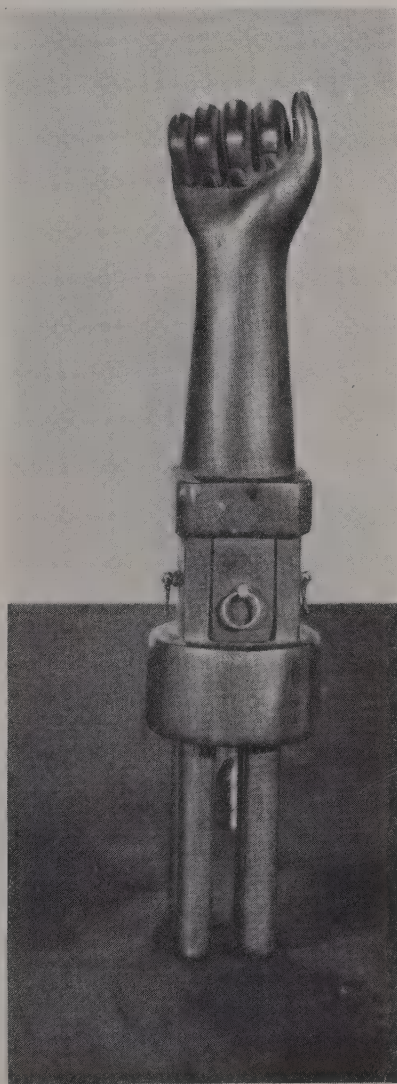
<sup>36</sup> The illustration comes from the volume by Joseph Gantner, *Konrat Witz*, second edition, Vienna, 1943, Illustration 70. See also Hugo Kehr, "Die Heiligen Drei Koenige," in *Studien zur Deutschen Kunstgeschichte*, Strassburg, 1901.



n) TWO KINGS.

Detail from a painting by Konrat Witz  
"The Three Magi bringing presents to the Jesus Child."  
1444. Geneva, Musée d'Art et d'Histoire.

not limit themselves to towers. They simulated also flowers, fruit, and fish — that favorite edible for the Sabbath — as well as other creatures. Rarely, instead of silver, was use made of wood. The sample here illustrated belongs to the Museum of the Hebrew Union College-



o) WOODEN SPICE BOX, IN SHAPE OF A HUMAN ARM AND HAND. Museum of the Hebrew Union College - Jewish Institute of Religion.

Jewish Institute of Religion. Here one sees an arm with the hand bent so that the fingernails could reflect the Sabbath light.

Once more let us look at the Jew on the pinnacle of our Baroque spice-tower (Plate 4). In his right hand he holds a winecup and, in his left, a candle. The cup, as already stated, does not differ from other cups. But the *Habdalah* candle is unique. This derives from the fact that, in the benediction over the light at the outgoing of the Sabbath, God is praised in the words, "Who createst the lights of the fire." To bring out the plural "lights," the candle was made to consist of several strands of wax and several wicks braided together. Here is a drawing of such a candle which shows striving for beauty even in such a humble object.



p) HABDALAH CANDLE. Drawing. From the Hungarian Periodical *Műt és Jövő*.



Usually this candle was held in the bare hand. But someone hit upon the idea of a lovely candleholder, thus increasing the number of objects for Sabbath-end use. A plate was laid upon a high pedestal, with staves ascending at the four corners. On each of these staves there glided a movable socket. If the candle was fresh, its socket stood far down. As the candle grew smaller, the socket would be raised. In this manner, the candle which would, at any one time, burn but briefly, could be used over and over.

The charm of these candleholders was heightened by substituting, for the foot, a small figure. Such a figure — and not more than a figure — has been preserved, the one in the Museum of the Hebrew Union College - Jewish Institute of Religion (Plate 5). The manikin, holding prayer book and taper, stands on a domed base. His attire is that of seventeenth century Germany, thus differing from that of the Jew on the Polish spice-box who clings to his medieval garb. What makes our fragment of especial interest is the fact that it carries the same maker's mark as the previously mentioned silver hanging lamp. In this way Valentin Schueler is to be recognized as the artist and the middle of the seventeenth century as the time of origin.<sup>37</sup>

About this period there seems to have burgeoned the custom of joining into various combinations the three implements, those for the blessings over the wine, over the spices, and over the lights. Practical reasons may have operated; so that everything could be held in a person's two hands. But a certain playfulness, noticeable in Jewish art works or in art works made for Jews, may likewise have prompted such contrivances.

Thus, for instance, into the candleholder just mentioned, would be slid a spice-box, not anything tower-shaped, only a drawer the size of a matchbox. Of this type also, the Museum of the Hebrew Union College - Jewish Institute of Religion can exhibit a sample, here portrayed, originating with a goldsmith of Bamberg in the early eighteenth century. Or, a socket holding the *Habdalah* candle could be made to rise out of the cover of a goblet. Our sample, on our Plate 6, was fashioned in the eighteenth century by a silver-smith of Nuremberg. A third combination consisted in supplying a winecup with a cover, and that cover served also to hold spices. A superb cup of this type, preserved in a Swedish private collection, is the work of a Breslau silversmith of the seventeenth century. It has the initials "B. I." That the person who ordered this object took a

<sup>37</sup> Of a similar candleholder, fully preserved, a picture stands in *Juedisches Lexikon*, II, col. 1461.



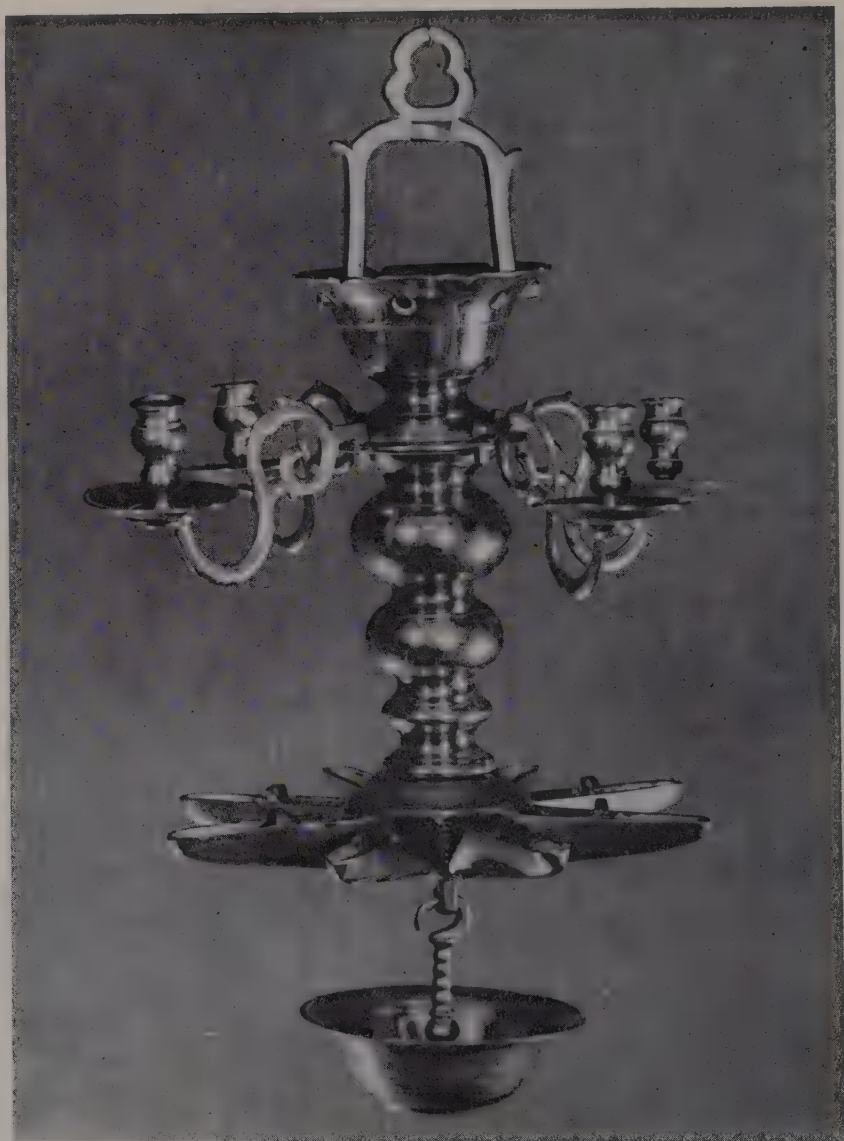
q) COMBINATION OF A HABDALAH CANDLESTICK WITH SPICE BOX.  
Bamberg, 18th Century. Silver.  
Museum of the Hebrew Union College - Jewish Institute of Religion.



1. SILVER SABBATH LAMP. GERMANY. 17th Century.

Fashioned by Valentin Schueler.

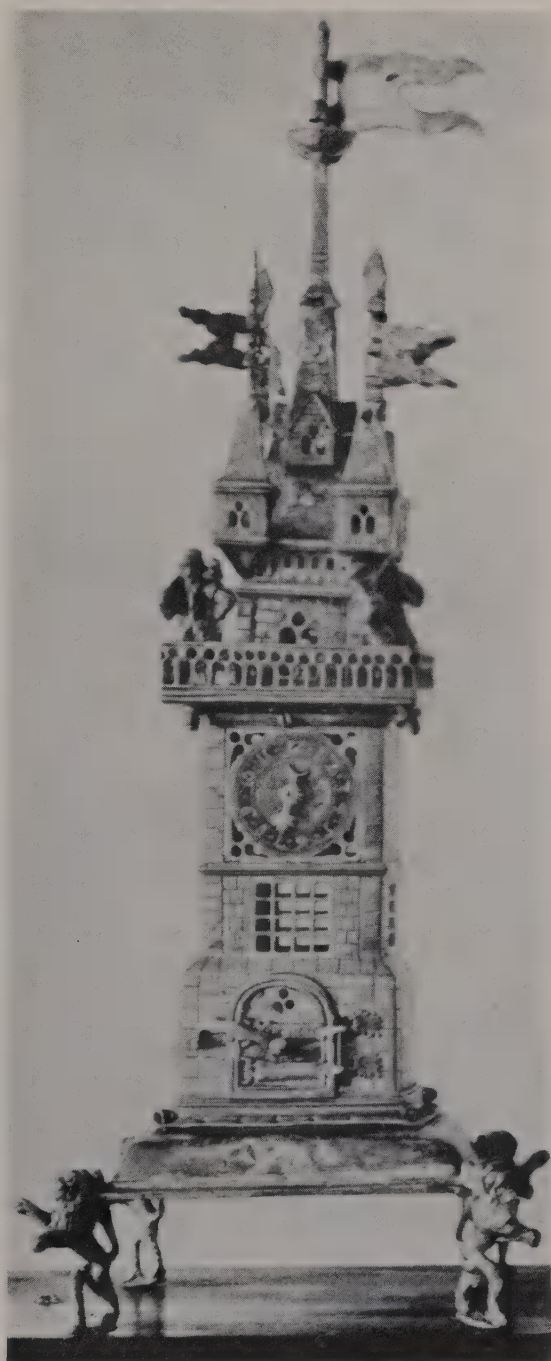
Museum of the Hebrew Union College - Jewish Institute of Religion.



2. POLISH SABBATH LAMP FOR OIL AND CANDLES. Brass.

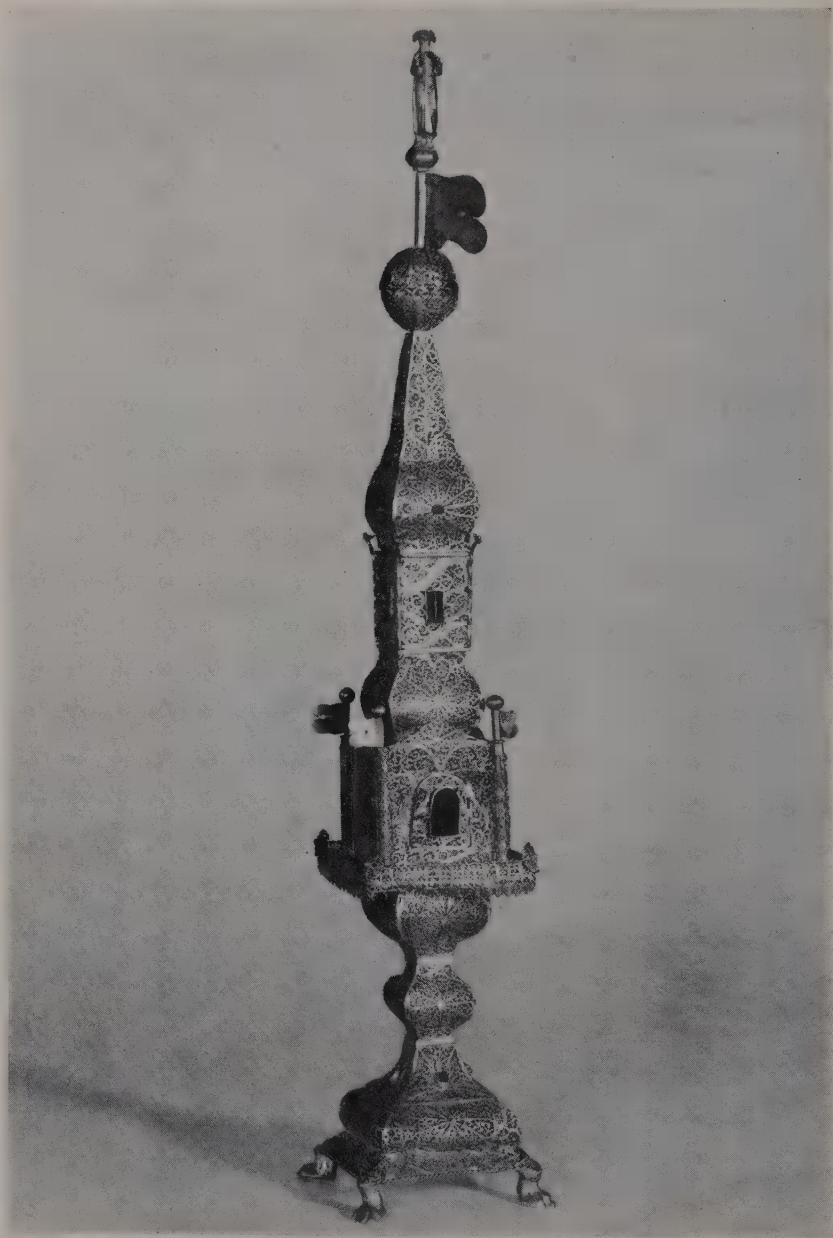
Early 18th Century. Donated by Dr. Eric Werner to the  
Museum of the Hebrew Union College - Jewish Institute of Religion.





3. GERMAN SILVER SPICE BOX, MADE AROUND 1550.  
Last at Kassel, Germany. Hessisches Landesmuseum.





4. POLISH SILVER SPICE BOX. 17th-18th Century.

Museum of the Hebrew Union College - Jewish Institute of Religion.



5. MANIKIN WITH HABDALAH CANDLE AND PRAYER BOOK

FOOT OF A HABDALAH CANDLE HOLDER. Silver.  
Fashioned by Valentin Schueler in the 17th Century.  
Museum of the Hebrew Union College - Jewish Institute of Religion.



6. COMBINATION OF KIDDUSH CUP AND HADDAH CANDLE.

Silver. Nuremberg, 18th Century.

Museum of the Hebrew Union College - Jewish Institute of Religion.



7. COMBINATION OF KIDDUSH CUP AND SPICE BOX. Silver. Breslau. 17th Century. Owner: Iwan Traugott, Stockholm, Sweden.



8. COVER FOR THE HALLLOT. Silk. 19th Century.

Museum of the Hebrew Union College - Jewish Institute of Religion.



lively part in its planning is indicated by the scenes hammered into the metal: scenes of Sabbath in the synagogue and Sabbath in the home (Plate 7).

A fourth and our last combination appears to have originated not before the early part of the nineteenth century. This was linked with the custom of pouring a little of the wine into a saucer and extinguishing the candle in the liquid. There would be used, for this purpose, a special saucer of porcelain, majolica, or silver, with some modest inscription and some equally modest ornamentation. But it was hardly before the nineteenth century that anyone arrived at the idea of combining that dish with the spice-box. In such cases the spice-box would take the form of some fruit attached to a stem pushing up out of a concave receptacle (see our illustration).



r) SILVER SPICE BOX WITH WINE CONTAINER FOR EXTINGUISHING THE HABDALAH CANDLE. Germany, Around 1830.

Zalman Yovely Auction at the Parke-Bernet Galleries, Inc., New York 1955.

The juncture of spice-box and *Habdalah* dish enjoyed no great popularity; it vanished after a brief period. The other combinations similarly lost their appeal. Perhaps they impressed people as being too ingenious. People returned to the separate implements.

Nor has our list of Sabbath appurtenances been exhausted. Inasmuch as cooking on Saturday was not allowed, food had to be prepared on Friday and kept warm in an oven, either one's own oven or that of someone else. Here and there the desire arose to impart an attractive appearance to the dishes for such food.

There were also dishes for the Sabbath loaves. These dishes were of silver, but I know of such only from the recent past. *Hallot* furnish the theme of their ornamentation.

Over the actual *Hallot*, doubtless with the religious urge to conceal and then to reveal, there would be spread a cover. The manner was simple. An English writer of the seventeenth century mentions, in this connection, a napkin.<sup>38</sup> But there are also instances of covers made specially for this purpose. In my *History of Jewish Art*, a picture of such a cover forms the frontispiece, a cover with an especially rich embroidery. Here we offer as our Plate 8 a cloth, again belonging to the museum of the Hebrew Union College - Jewish Institute of Religion. In the middle stands the Star of David surrounded by twelve circles enclosing the symbols of the twelve tribes, all stamped in black upon gold-yellow silk. The charm of the vivid drawing is heightened by that powerful contrast of colors.

Over her head and shoulders, the woman of the house, as she handles the Sabbath lights, sometimes wears a special kind of embroidered kerchief.<sup>39</sup> Also to be noted, as a token of the day, is the tablecloth. While tablecloths were known among well circumstanced Romans,<sup>40</sup> the Jews could indulge themselves that elegance only on special days.<sup>41</sup> But their tablecloths were ornate with weavings and embroideries.

Finally to be mentioned is the special kind of bowl into which the head of the family would dip his hands at the beginning and at the end of the meal. From ancient times, such washing held for the Jews a religious significance.

Let us recall once more the lines from Persius. How few and simple were the objects employed in the private observance of the Sabbath! During the nearly two thousand years that have elapsed since that satire was written, ritual objects for the Sabbath have steadily increased in number and gained in splendor and charm.

We have shown how extensively the shapes chosen were determined by the surrounding world. Those outside influences often went to the point of having Jewish religious objects fashioned by artificers belonging to other religions. This was due not to any Jewish incompetence but to the fact that certain kinds of art had become extinct

<sup>38</sup> Alexander Ross, *A View of the Jewish Religion*, London, 1656, p. 228.

<sup>39</sup> Such a head-dress, gold-embroidered, is in the possession of the Bezalel National Museum in Jerusalem. Cf. the catalogue of the exhibition, "One Nation Out of Many Peoples," 1953, No. 291.

<sup>40</sup> Compare the article, "Kochkunst," in Pauly-Wissowa, *Realencyclopaedie der classischen Altertumswissenschaft*. See also J. Marquardt, *Das Privatleben der Roemer*, Leipzig, 1879, p. 303.

<sup>41</sup> To a tablecloth was probably applied the maxim of R. Eleazar in Sab. 119b: "Though one may need not more than an olive, one should always set one's table properly on Sabbath eve."

among the Jews owing to political and economic pressures. Proof of this is the fact that the Jews of Eastern Europe, living under more favorable conditions, created those works by their own skill.

And who can gauge, in every instance, how intently the non-Jewish artist may have carried out the wishes of the Jewish person whose order he was filling or may, even if unconsciously, have entered into the Jewish spirit? Even where the Jews did not themselves produce their implements, their mode of living merged those implements into a compact unity. The result was Jewish Art,<sup>42</sup> an art which, by reason of its manifold structure and its fine quality, well deserves the consideration which it has here received.

<sup>42</sup> For a more detailed treatment of the question what constitutes Jewish art, one should read the clever article by Stephen S. Kayser, "Defining Jewish Art," in the *Mordecai M. Kaplan Jubilee Volume*, New York, 1953, pp. 457 ff.



## THE DEMOCRATIC SOCIALISM OF HERMANN COHEN\*

STEVEN S. SCHWARZSCHILD, Fargo, N. D.

IN wide circles the term "Democratic Socialism" has fallen into disrepute in our time chiefly because of attacks leveled against it by two opposing factions, factions united only in this common enmity. On the one hand, Marxist communists condemn it as the label of what they call "bourgeois opportunism and treason to the working class," while conservatives proclaim that it designates a political movement which inevitably develops into the advanced stage of Stalinism with which they, therefore, throw it in the same pot. For reasons of historical and social accuracy alone it is only proper that the ideological sources and the motivations, which may be impelling this trend of thought even today, be correctly understood. When, to this point of interest, are added the philosophical authority, the ethical enthusiasm, and the Jewish devotion of the man who was the greatest Jewish technical philosopher of the closing 19th and beginning 20th centuries, the subject becomes one of intriguing significance.

### HISTORICAL BACKGROUND

Offhand one might expect Hermann Cohen to be among the last to join the band of convinced socialists. He was born into the lower middle-class German-Jewish family of a small-town cantor. Having, as a young child, witnessed the liberal revolutions of 1848 which set Europe aflame, he lived his mature and productive years precisely from the Franco-Prussian war of 1870, out of which the German empire of Bismarck was born, to the end of the First World War in which this Empire was destroyed. He was at all times a fervent German patriot who, very much like most German Jews of that period striving for complete emancipation, identified the progress of his country with his own progress and the essence of his religious faith with "Germanism" at its best, ardently defended the righteousness of the Kaiser's cause

\* This essay is part of a larger study on the philosophies of history of Nachman Krochmal and Hermann Cohen. It is dedicated to the man who was my teacher in school-days and is so today, Prof. Samuel Atlas, Hebrew Union College - Jewish Institute of Religion.



in the great war, and even wrote a booklet "Germanism and Judaism" that today makes his most loyal disciples cringe. In his personal career he advanced meteorically, yet respectably and conventionally, from private instructor to full professor at a German university. In his appearance, as in his manner of life, he was an unmistakable member of the middle-class, quite stout, and appropriately academic. And, so far as his teachings were concerned, he was the outstanding European spokesman for pure or critical idealism in the tradition of Kant which, to the layman, often seems ethereal and unpractical; to the dialectical materialist, diversionary and unrealistic.

There existed also historical factors in this period which may have contributed to the crystallization of Cohen's socialism: the rising German-Jewish middle class felt that it had not yet been completely enfranchised and that only a radical improvement of social conditions would ameliorate this state of affairs. Even those rights which they had already acquired they felt to be endangered by the rise of that progenitor of Nazism, the organized antisemitism of nationalist, religious, and academic Germans which raised its ugly head in the middle of the reign of the "Iron Chancellor." During that same period German political opposition became increasingly concentrated in the Social Democratic Party, which was as yet not split between socialists and communists, which, differing from its later stages, still stood squarely on a platform of complete doctrinal socialism, and which was gaining electoral strength to a surprising degree. Bismarck himself inaugurated the system that became known as "state socialism." Above all, however, it was philosophical, ethical, political, and religious considerations of a very elaborate and technical nature which led the "father of the Marburg school" of philosophy to a lifelong espousal of socialism.

#### ATTITUDE TO SOCIALIST MATERIALISM

The first question which must arise in one's mind, when one tries to imagine the exponent of radical philosophical idealism associated with the political party which has usually stood on a program explicitly based on economic determinism, is how Cohen overcame this obvious contradiction. The answer is that, in the first place, he disagreed with the commonplace refutations of this doctrine even more than he did with socialist materialism itself. Secondly, he tried to reveal the ethical and idealistic foundations which underlay the materialistic doctrines, though it rarely happened that these were consciously understood by their framers. And, last of all, he powerfully and

cogently argued against philosophic materialism not only on theoretical grounds but also on the ground that, for logical as well as historical reasons, philosophic materialism is basically antagonistic to socialism.

Conventional bourgeois idealism frequently accuses socialists of being materialists, but this term is used not in its philosophic implications but rather in its colloquial connotations. Because socialists are primarily interested in the improvement of economic conditions they are supposed to be concerned only with crass matters of physical comforts rather than with such "spiritual" values as freedom, independence, and culture. This, in Cohen's time, was known among political controversialists as the "questions of the stomach" (*Magenfrage*). This argument Cohen calls "pious hypocrisy."<sup>1</sup> With the invocation of such lofty phrases, conservatives merely wish to cover up their desire to preserve their privileges and advantages under the *status quo*, and for this purpose they are perfectly willing to rely on ancient prerogatives. When this does not suffice, they seek, in all haste, to preserve their advantages by re-writing the law. This "egotism hostile to ideals" is the real materialism.<sup>2</sup> Furthermore, Cohen quotes Maimonides<sup>3</sup> to the effect that social injustice and economic misery are obstacles which have to be removed before the higher and nobler spiritual aims can be achieved. Therefore, "we must be allowed to begin by concerning ourselves with the questions of the stomach, but, from the very outset, the crux must be the question of the spirit, the question of spiritual, that is to say, of moral freedom."<sup>4</sup>

Because the theoreticians of socialism have seen through this persiflage of conservative idealism, they have usually taken a materialist position in philosophy. "It might well be, therefore, that men are so enraged and outraged by the hypocritical utilization of moral ideas that they point to the immoral conditions of real relations of power in order to unmask in them the driving force of all past history. This would then be anything but materialism. Rather is it a restrained idealism which guides this view of history."<sup>5</sup> Thus, for example, the budding sociology of Cohen's time regarded itself as firmly based on scientific, Darwinian, and materialistic assumptions. It exhausted

<sup>1</sup> *Ethik des Reinen Willens*, Berlin 1904, p. 279.

<sup>2</sup> F. A. Lange, *Geschichte des Materialismus*, 7th ed., introduction and critical epilogue by H. Cohen, Leipzig 1896, p. 527.

<sup>3</sup> *Juedische Schriften*, ed. by Franz Rosenzweig, Berlin 1924, vol. 3, p. 174.

<sup>4</sup> *Ethik*, p. 295.

<sup>5</sup> Quoted in Walter Kinkel, *Hermann Cohen — eine Einfuehrung in sein Werk*, Stuttgart 1924, p. 168; cf. also Lange, *op. cit.*, pp. IX, 446.

itself in collecting data about social conditions and treated these as if they dealt with formations of rock. It elicited averages, juggled them mathematically, and sincerely believed that through them constructive conclusions could be reached. Cohen calls this kind of sociology "moral statistics" (*Moralstatistik*). Yet, at the same time, he recognized and stressed that this type of naïve scientism served humanity better than did the pompous idealism which constantly prattles about human values and dignity; for fundamentally scientism was interested in existing facts only in order to change them and to improve them for the future.<sup>6</sup> Or, to give another illustration, Cohen certainly rejected all forms of eudaemonism and hedonism as antagonistic to the purity of ethics and philosophy and as making of history and morality mere matters of egotism. Still, he pointed out that the historical functions of eudaemonism and hedonism have usually been progressive and healthy. When they were superseded by Roman stoicism which fore-swore the pleasure of the senses, there was symptomized a state of political lethargy which withdrew from the world and left its conduct in the hands of a few political conspirers, and, when Schopenhauer's "exotically dressed-up apathy of political pessimism" succeeded the optimism of the Enlightenment, there was reached a nadir in democratic progress.<sup>7</sup> Cohen climaxes this entire line of thought when, in a central place of his major work in which he worked out his radical philosophic idealism, he eulogizes Karl Marx, the grand-daddy of modern socialist materialism. "When the socialism of a Marx, from its high historical perspective, wants to stigmatize the compelling power of material conditions, it unwittingly becomes satire. A fiery ethical spirit motivates all his great work, theoretical as well as practical. It were pedantry to offer, to such an emissary of the God of history, little maxims of spiritualistic morality."<sup>8</sup>

But, when all this has been said, it must be added that "the materialism of history is the most direct contradiction of the ethical idealism in which socialism has its roots conceptually as well as historically."<sup>9</sup> True, it only replaces the atheism of the rationalist enlightenment, which saw in religion the malicious handiwork of priests and kings, by its own atheism which makes of God "the scarecrow of the agricultural economics that produce all culture."<sup>10</sup> True also that, as we have seen and as we shall see further, socialist materialism is an intel-

<sup>6</sup> *Ethik*, p. 276.

<sup>7</sup> *Ibid.*, pp. 278, 280.

<sup>8</sup> *Ibid.*, p. 296.

<sup>9</sup> *Religion und Sittlichkeit*, Berlin 1907, p. 16.

<sup>10</sup> *Juedische Schriften*, vol. 2, p. 398.

lectual error, not a moral one. But this intellectual error, when carried to its logical end, will cancel all socialist aspirations and convictions. It is based on the belief that history is ruled by the law of theoretical reason or logic which thinks in categories of cause and effect rather than of aim and will, i. e. the laws of ethical reason or morality. The result is that history, as the story of man, his ideas and goals, becomes part of natural history, the inevitable sequence of effects following inevitably upon inevitable causes without regard to moral ideas like freedom and justice. This not only destroys history as such but also implies approval of all historical realities because they are necessary and can, therefore, not be morally reprehensible.<sup>11</sup> Indeed, except by philosophic sleights of hand, Marxist dialectics have never been able to get around this dilemma of historical necessity which they posit versus social betterment to which they aspire. The father of this original sin of modern socialism is Hegel.<sup>12</sup>

#### ATTITUDE TOWARD HEGEL

Indeed, nothing could have been more regrettable and injurious from the point of view of the socialist movement than that its modern founders traced their intellectual ancestry back to Hegel. Hegel's basic error consists of having assumed that theoretical reason, rather than volitional ethics, governs history. The result is that history is conceived of as a pantheistic system in which an absolute essence, Spirit, in the course of time and by absolutely necessary stages, reveals itself inherently through its own laws of manifestation, that is, through dialectics. History thus becomes part of nature since both obey the same causal evolutionary laws of the absolute Spirit. This is Hegel's version of *Deus sive natura*.<sup>13</sup> This in turn leads to the logical conclusion, which neither Spinoza nor Hegel shirked, that everything that is is necessary and rational and, therefore, in its time and place, is also good. And that, of course, constitutes intellectual and ethical acquiescence to every historical reality, be it good or bad, just or unjust. It requires submission to every reality, however abhorrent it may appear to be from the social and socialist point of view, and pulls out the moral ground from under the feet of any ethical protest and revolt. Cohen exclaims: "Perhaps nothing has contributed so much to making philosophy contemptible in the pre-revolutionary age than the reactionary motto of Hegel: The real is reasonable, and the reasonable is

<sup>11</sup> *Ethik*, p. 36 f.

<sup>12</sup> Cf. Lange, *op. cit.*, p. 523.

<sup>13</sup> *Ethik*, pp. 43, 314.

real.”<sup>14</sup> Conventional conservative religionists invoke this god who is the author and approves of everything as it is when it is, in order to justify their egotistical greed.<sup>15</sup> Politicians of a reactionary stripe wallow in the romanticism and mythology which glorify the past and its products to assert that history teaches the limits of what can be and what can be done, that “there can be nothing new under the sun” and that, therefore, all striving for reform is a vain chasing after the wind.<sup>16</sup> And, in the course of time, Hegelian philosophers were able to refer to their teacher in order to defend the most diverse and mutually contradictory political programs. The Hegelian school was split between those who looked forward to the most radical social revolution and those who regarded the existing Prussian state as the acme of perfection, between those who proclaimed a consistent atheism and those who endorsed orthodox religion — all of them presenting the seal of their master’s approval by relying on the dictum that whatever is or whatever will necessarily be is rational.<sup>17</sup> Ethical idealism, Judaism as well as Kant, must and does answer this pernicious doctrine with the counterproposition that the rational is never real and that it is man’s task on earth to realize it ever more.

Apart from the faulty philosophic bases from which Hegel starts, erroneous concepts regarding the operation of history also contribute to the irreconcilability of all forms of Hegelianism with socialism, despite the intertwining of the two in the standard ideology of what Cohen calls “party-socialism.” In the first place, belief in development presupposes knowledge of the aim of the development. Development means purposive movement but, without knowing what the purpose is, one cannot know whether movement is development or simply meaningless chaos and turbulence. On the basis of belief in the causal, Darwinian, nature of history, it is impossible to conclude as to the existence of a purpose, because, since purpose is an ideal, hypothetical, definition which acts as an ethical norm, it cannot be deduced from empirical observation. The empirical facts of history may point to any number of varying purposes, or they may point to no purpose at all, depending on future occurrences which cannot be presaged. Therefore, since Hegelians are unable to know whether there is a purpose to history, and since, if they were to know that there is a purpose, they would not know what it is, they also cannot dogmatically stipulate

<sup>14</sup> Lange, *op. cit.*, p. 463.

<sup>15</sup> *Ibid.*, p. 521 f.

<sup>16</sup> *Logik der Reinen Erkenntnis*, 2nd ed., Berlin 1914, p. 388.

<sup>17</sup> *Ethik*, p. 43.



that history is development. This destroys the very bases of Hegel's and Marx's belief in progress.<sup>18</sup> The invariable result is that metaphysicians, — and that is what they both were, because they both assumed the reality of forces which reason cannot deduce —, posit all sorts of finite purposes for history such as the Prussian state, in the case of the former, whose effect is to stifle the infinite search of man for perfection and to lull him into satisfaction with lesser realities.<sup>19</sup> Again, the idealism of socialism is outraged by such an imposition.

So far as the dialectical laws are concerned, that history proceeds according to the scheme of thesis, antithesis, and synthesis, into which Marx squeezed the functions of the determining economics, instead of into Hegel's absolute spirit, Cohen admits that by means of their manipulation a certain deepening, flexibility, and appreciativeness were introduced into historiography which had previously been quite narrowminded and mechanical. And yet, by denying in effect the basic logical law of identity, those dialectical laws also annihilated the rational security on which all thinking is premised, and therefore endangered rationality as such. Furthermore, "one or a very few" continuous and not contradictory motives are sufficient to explain the progress of history which is, consequently, much smoother, surer, and less cataclysmic than might otherwise be supposed.<sup>20</sup> What, indeed, is the materialist rationale for assuming the existence of dialectical laws and the bloody conflicts which they are supposed to bring about in history? Is it, as we have already seen it would have to be, to be movement for its own sake, without rhyme or reason? And if, as Hegel declares, human pain and suffering testify to the existence of conflict and to the dialectic which explains it, then the simultaneous existence of pleasure and joy should also testify to the validity of the law of identity and the resulting continuity of historical progress. At this point, it is evident, Cohen expounds a doctrine of socialism which involves his own basic optimism and which has more in common with Fabian gradualism than with Marxist eschatological speculations. Indeed, he often asserts that progress in history comes about through the reform of one small institution after another, and that each new institution remains in continuity with its predecessor through the revamped remnants taken over by the one from the other.

<sup>18</sup> *Ibid.*, p. 41 f.

<sup>19</sup> Cf. Simon Kaplan, *Das Geschichtsproblem in der Philosophie H. Cohens*, Berlin 1930, p. 53.

<sup>20</sup> *Logik*, p. 113.

## REJECTION OF EXISTING REALITIES AS IDEALS

The principle underlying Cohen's rejection of Hegelianism in its original form as well as in its transformed state of socialist materialism is the refutation of the pantheistic doctrine that "everything that is is rational, and that everything rational is," on the grounds that, philosophically speaking, this constitutes a confusion of the ideal with the real, of the hypothetical with the empirical and that, ethically speaking, it amounts to a vicious justification of any given *status quo* in history and society. Hegelianism and socialist materialism, in short, are the denial of voluntarism in favor of quietism. Cohen is amazingly radical and consistent in the application of this criterion to all cultural and historical realities.

He even judges art by this standard. Art grows out of a political and social soil. By showing existing facts in an idealized form, transforming the palaces of the aristocracy into temples of religion, tracing present monarchs back to an idealized patriarchal and even divine origin,<sup>21</sup> and by beautifying empirical man in his social environment, art internalizes and justifies social cleavages.<sup>22</sup> By contrast, the art of "the new age," which was born out of Shakespeare's transformation of the tragedy into the historical drama, where human life becomes subject to the direction of its own will and is, therefore, guided to the basic motif of history, to wit, freedom; and out of Goethe's establishment of the aim of man as "the free man working on his own soil," — that art was begun and foreshadowed by modern French painting which places the worker into the center of attention and shows him in his real condition.<sup>23</sup> (One is somewhat uncomfortably reminded of the "new realism" of Nazi Germany and Soviet Russia.) And Cohen concludes his lengthy philosophic study of esthetics with this eulogy and accolade to the new age: "France has led up to a new world of states, a new nature of the state, — not without the hard, horrible contradictions which make the spirit of nations and of their leading individuals ambiguous and the spirit of world-history ambivalent, and yet with the clear-cut self-evidence of a world-shaping principle. Beyond the contradictions which afflict revolutionary politics, cosmopolitan humanity, as a latent principle, became the highest axiom of the life of states and nations. Out of this basic direction, the new politics of socialism grew and, whether the artist admits it or not,

<sup>21</sup> *Aesthetik des reinen Gefuehls*, Berlin 1912, vol. 2, p. 8.

<sup>22</sup> *Ibid.*, vol. 1, p. 398.

<sup>23</sup> *Ibid.*, vol. 2, pp. 94 ff.

modern painting reaches its climax in the human rights of the workers."<sup>24</sup>

This same criterion annihilates the hero-cult as historiography. For in it the natural, empirical man, man as he is, becomes the ideal, and whether this hero be the sage of stoicism or the Jesus of Christianity or the "leader" of the corrupt forms of modern socialism, the hero-cult inevitably leads to "the materialism of the worship of power," and in politics it is, after all, never the poor and miserable but the strong and the mighty that become heroes. Thus the basis is laid for an aristocracy and for inequality.<sup>25</sup>

Most important, the rejection of given realities as ideal and history-forming forces results in the refusal to accept the "people" (*Volk*) as genuine historical units. Hegel himself and the historical school of the philosophy of law (Savigny) as well as the former's Jewish disciples, most eminently among them Nachman Krochmal, traced national cultures back to the genius of each people, or the spirit of each people (*Volksgeist*). This theory, Cohen replies, not only accepts biological realities as God-given ideals, not only does it induce Savigny to deny the contractual, democratic basis of the state in favor of a natural explanation, but it also inevitably leads to the chauvinism of racial nationalism.<sup>26</sup> To the contrary, peoples are only the natural raw material, the problematic given facts of history which correspond to the problematic given facts of the senses in critical epistemology, out of which the ideal structure of the state makes an historic force tending, as its aim, toward the life of humanity.<sup>27</sup> And we shall see that, consequently, socialism likewise will have to work through the state, more in accordance with Lasalle's national socialism than with Marx's internationalism, for the state is a legal, contractual product of ethical, ideal wills and can, hence, be teleologically oriented.

#### PHILOSOPHICAL FOUNDATIONS OF SOCIALISM

Having, on the whole, rejected the commonly accepted philosophical bases of socialism, as well as a number of the operative details built on them, we must next ask what, positively, the conceptual foundation is on which Cohen erects his own socialist ideology. For that purpose we must first understand, at least in outline, his view of history as such.

<sup>24</sup> *Ibid.*, p. 415.

<sup>25</sup> *Ethik*, p. 31.

<sup>26</sup> *Ibid.*, pp. 236 ff.

<sup>27</sup> *Ibid.*, p. 32; *Logik*, p. 203.

History, if it is to give us reliable knowledge, must be a rational science. Like every science, it will have to comprise two elements, the element of the materials with which it works and the element of the method which it uses to work on them. Now the materials of history — though, also regarding them, some vagueness of definition may exist which can be overcome only by the most scrupulous attention to the best and most original sources of information — are generally agreed to consist of the historical information deposited in the records of the past and present life of humanity. As for the methods, however, a great deal of confusion prevails. It is, therefore, imperative to realize that the method of historical science, like that of every other science, is basically hypothetical; that is to say, the aim of this science, as of every other, is to unify the available multitudinous and chaotically meaningless material by means of as few principles as possible into an organized and rational whole. This can be done only by formulating a reasonable idea, not empirically derived from the so-called facts — since these, after all, constitute the problem — which will have the two functions of every idea or hypothesis: first, to be used experimentally as a criterion for the selection, classification, and comprehension of all relevant facts, and secondly, to represent the norm or goal for the complete attainment of which existing facts should be modified and improved. We have already seen that history, as human development, is inconceivable without an end or aim, and that such an end cannot be defined by means of empirical observation of past events.<sup>28</sup> Therefore, it must, to the contrary, be an end that is not empirical but pure or ideal; which is only another way of saying that it must be perfect and can, consequently, be realized only in infinity. Otherwise, if the end were not infinite, though not fulfilled in reality now, it might be at some future time and would, therefore, be in principle, if not in actuality, of an empirical character. The operative effects of such an ideal end, by means of which the facts of history are serialized are that, in the first place, these facts, which have hitherto lain about at random and without meaning like stray pieces of iron, are now directed toward a significant purpose, as if straightened out by a gigantic magnet; and, in the second place, the course of history, never completed in time, continues into infinity toward ever greater perfection brought about by man's action in history.

Idealistic historiography, in short, rationally defines ideal aims

<sup>28</sup> *Religion der Vernunft aus den Quellen des Judentums*, 2nd ed., Frankfurt a/M 1929, p. 292; *Logik*, *op. cit.*, p. 586.

which are to be accomplished and are, therefore, ethical in nature. By means of these ethical concepts, it orders and explains the facts of history, economic as well as cultural.<sup>29</sup> It is interesting to note to which three causes Cohen attributed, even in his time, a skepticism about such idealistic historiography in terms of preferring a so-called "realistic," empirical or "objective" method. Since, as we shall see shortly, the God of history is for him an ideal in the sense in which we have just defined it, (though that is the highest degree of reality itself) he suspects, in the first place, that dissatisfaction with such an ideal God stems from the Protestant desire and necessity to prove the historical and empirical existence of Jesus as a deity. He attributes it, in the second place, to a general cynicism about the reality of ideas as such and, in the third place, to the recrudescence, in Jewish circles, of a biological naturalism which, in line with the Hegelian and Krochmalian "pantheism" with which we have already dealt, glorifies the people in a burst of nationalism which is regarded as the source of cultural values.<sup>30</sup>

The hypothesis according to which history functions and toward which it strives must, hence, be perfect, infinite, and universal. Now history, being the history of men, must strive, therefore, toward the perfect unity of all mankind living together, in accordance with ethical precepts, in perfect peace and in the fullest knowledge of truth. Indeed man, being the empirical fact of the historical science of man and becoming an object of that science only through the hypothesis of that science, actually exists only insofar as he orients himself toward that unified humanity.<sup>31</sup> And this end, of perfected mankind, living in the ethical society, has been called "the messianic age" by the Biblical prophets who first envisaged it. The prophets may, therefore, rightly be called "the inventors of history."<sup>32</sup>

The messianic belief is primarily the belief in the ethical norm of a united humanity created by the moral endeavors and history-shaping actions of men.<sup>33</sup> It involves the fundamental religious virtue of "sympathy" (*Mitleid*) through which the suffering and misery of fellow humans is deeply felt as an evil. This evil is recognized not in the inevitability of biological death, out of which rather resignation and mythology arise, but in the wickedness of societal and, therefore,

<sup>29</sup> *Juedische Schriften*, vol. 3, p. 198.

<sup>30</sup> *Ibid.*

<sup>31</sup> *Religion der Vernunft*, p. 15; *Ethik*, pp. 1-5.

<sup>32</sup> Cf. Kinkel, *op. cit.*, p. 251.

<sup>33</sup> *Ethik*, p. 53; *Juedische Schriften*, vol. 3, p. 173.



remediable poverty.<sup>34</sup> The misery of poverty, as the original evil of society, is furthermore not viewed as punishment for sin but as the symptom of a profoundly unjust and unstable condition of humanity, a condition conquered in the triumph of the righteousness and justice of messianism.<sup>35</sup> Messianism is thus only the religious term for socialism. "The politics of the prophets are nothing but what we today call socialism. Their faith is to have justice done to the poor, and their religion is morality."<sup>36</sup> The universal priesthood of all men is the religious term for the socialist concept of the dignity of all workers. And the motto of all future history beginning with "this new age" must be: "It is a matter of literally and truly realizing the basic faith in God: the love of neighbor, which is to say: the regeneration of the nations out of the ethical ideal of socialism."<sup>37</sup>

This hypothesis is, by definition, one which cannot be transformed into reality except in infinity. The objection must, therefore, lie close at hand that it is an unreachable ideal, and men, in despair of ever being able to attain it, will easily give it up as a useless and hallucinative castle in Spain. For that reason Marxist socialists constantly indict those who find the rationale of their socialism in a philosophy other than theirs as "sentimentalists and utopians," for they believe that all who do not share their faith in the prognosis made by Marx of the inevitable, objectively necessary and invincible progress of history toward communism can give neither themselves nor others the assurance of eventual victory — which is a premise of effective action. That such an assurance is required is admitted also by Cohen but, that it cannot be given on the Darwinian, Hegelian, grounds cited by Marx, he has already demonstrated. It can be given only through a rational faith in God. God is understood to be the creator of nature in a manner and through reasoning not directly pertinent to our considerations here; messianism, on the other hand, is the belief in the ethical norm of a just, universal, society reached in infinity. Now society can exist only on the backdrop, as it were, of nature. Nature is the stage on which the play of history takes place, and if this play lasts into infinity, then, in order to make it possible

<sup>34</sup> Max Brod, *Heidentum, Judentum, Christentum*, Munich 1921, makes a similar distinction between the Christian emphasis on "ignoble suffering" that could be prevented or remedied, and the Jewish emphasis on "noble suffering" which is unavoidable and in the nature of things.

<sup>35</sup> *Juedische Schriften*, *op. cit.*, vol. 1, pp. 313 f.; *Religion der Vernunft*, *op. cit.*, p. 26.

<sup>36</sup> *Ethik*, p. 528 f.

<sup>37</sup> Lange, *op. cit.*, p. VIII f.

to play it through to its end, nature must exist into infinity. Faith in God then means the belief that God guarantees the eternity of nature so that the infinite tasks of ethical history may be performed.<sup>38</sup> Faith in God is thus the idealist's answer to the Marxist accusation of utopianism, and Cohen grandiosely even returns the accusation in terms of his own philosophy: "Through its atheism socialism deprives itself of its pinnacle, its roof; through its materialism it deprives itself of its basis, its foundation. Through its atheism it indeed becomes utopianism."<sup>39</sup>

Cohen's socialist ideology also differs from that of orthodox Marxist socialists in its evaluation of the state. We have previously noted, and must here mention it again, that the state, compared to the natural, biological unit of the people, is an ideal structure, arising out of a democratic contract of all the people which it comprises.<sup>40</sup> Its ideality is testified to by the fact that it allows of no discrimination between its citizens, that it deals in universals and not in majorities, — the latter concept being the excuse which politicians use to except certain cases from democratic, social rights. "Necessity, universality, is the logical means which ethics uses to guard against the possibility of exceptional cases. By the latter, politics is wont to confirm the general rule of the love of neighbor. The Negro, too, is a man, even before he has become a Christian."<sup>41</sup> On the other hand, it must be clearly understood that this ideal state of which Cohen speaks is not the empirical state of history which he himself characterizes as "the power state of the ruling classes."<sup>42</sup>

If, with regard to the people, the state is an ideal, it must also be kept in mind that it is less than ideal with regard to the eventual aim of history, namely, a united humanity. It is thus a transitional stage between the natural fact of peoplehood and the messianic aim of humanity.<sup>43</sup> Since it is such a transitional stage, socialism must work through it, and not apart from or in opposition to it, as orthodox Marxist internationalism maintains. Here Lasalle, according to Cohen, was closer to the truth than was the greater man, his antagonist.<sup>44</sup> Also, due to this character of the state as a relative ideal, it is a

<sup>38</sup> Cf. Guttman, *Die Philosophie des Judentums*, Munich 1933, p. 351; *Ethik*, *op. cit.*, p. 426 f.

<sup>39</sup> Lange, *op. cit.*, p. 527.

<sup>40</sup> *Ethik*, p. 32.

<sup>41</sup> *Logik*, p. 544.

<sup>42</sup> Quoted in Kaplan, *op. cit.*, p. 85.

<sup>43</sup> *Religion der Vernunft*, p. 16.

<sup>44</sup> *Deutschum und Judentum*, Giessen 1916, p. 49.

constituent part of the eventual messianic society, and thus the unity of humanity must not be conceived of as a unification of biological peoples but rather as a federation of ideal states.<sup>45</sup> Indeed, the fact, that the individual state can be conceived of as leading to and eventually integrating itself into a federation of states, is the best proof of its transitional ideal nature; for, if it should be claimed that religion is more conducive to the unification of mankind, it must be pointed out not only that religion has historically always been divisive but that, due to its necessary claim of possessing the only truth and the whole truth, must always remain divisive. While a unity of religions is a contradiction in terms — unless the “principle of toleration and similar bromides” be called upon — the state naturally points beyond itself to the unity of states.<sup>46</sup>

In view of this position which so strongly upholds the legitimacy of the state, Cohen is entirely justified — as he would perhaps be even without the details of his personal political ideology — in saying: “Compared to anarchism, socialism unwittingly assumes the role of defender of state and law. Therefore, instead of disrupting the party in this necessary police work by suspicions and accusations, this fact should rather be gratefully acknowledged.”<sup>47</sup>

Despite the earlier reservation that the state which he is talking about is, of course, not the actual, empirical state, there is nonetheless obvious danger in Cohen’s apology for it. This danger is counteracted by the concept of society. Society is the concept of the true and genuine, ethical as well as universal, association of men. This concept, therefore, acts as a corrective to the state by holding in front of it the picture of what it should be, and thus pulls it out of any possible smugness, self-satisfaction, petrification, and narrowness. It represents the infinite perfection in comparison with which the particular and actual state always becomes aware of its limitations.<sup>48</sup> Economic determinists do the concept of society and its effectiveness a great deal of harm when they use it as the designation of the actual economic and cultural entity, contrasted with the legal entity of the state, rather than as this ideal norm. “In the term society echoes the sound of reform and the heartbeat of revolution.”<sup>49</sup> Finally what the philosophers and sociologists call “society” religion calls “the kingdom of God.” The kingdom of God is the concept which corrects the existing

<sup>45</sup> Kaplan, *op. cit.*, p. 31.

<sup>46</sup> *Ethik*, p. 57.

<sup>47</sup> Lange, *op. cit.*, p. 530.

<sup>48</sup> *Religion der Vernunft*, p. 277; *Logik*, p. 203.

<sup>49</sup> Lange, *op. cit.*, pp. 525, 529.

realities by confronting them with ideality, and it has the advantage over the concept "society" in that it refers, through its religious connotations, to the guarantor of its own eventual victory and thus of being divine where "society" is merely human.<sup>50</sup>

#### REACTIONARY PHILOSOPHICAL OBSTACLES TO SOCIALISM

The two most malicious doctrines expounded by thinkers to retard the progress and realization of this philosophical, idealistic socialism, which Cohen expounds, derive from Greek philosophical sources, on the one hand, and from religious obscurantists on the other.

Even the father of all idealism, of the hypothetical method and of ethics as a science, "the divine Plato," could not rid himself of the aristocratic prejudices with which the society in which he lived was suffused. Nowhere in his political utopia of the "Republic" does he indicate any moral abhorrence of the institution of slavery which so profoundly disfigured the social landscape of ancient Greece. To the contrary, slaves are treated as an eternal and natural class. The philosophical basis of this social reactionism is the intellectual snobbery which believes that not all men are capable of understanding, cognizing, and acting in accordance with the truth; therefore, science must always remain the prerogative of a privileged few. There will always be a hard distinction between the rulers and the ruled and, consequently, even the loftiest motto of the philosophical politics of Plato still retains the dichotomy between the two: "Let philosophers become kings and kings philosophers!" Will there always be kings, Cohen plaintively asks, or will not one day the ruled also be the rulers? Wherever the doctrine is expounded that some men are more capable of intelligent and rational thinking than others, there political reaction prevails.<sup>51</sup>

The other roadblock to the socialist society among thinkers is the tendency to explain social institutions and historical facts in terms of divine revelations or ordinances. When, for example, the Sabbath is explained as the result of a heavenly fiat rather than as the social institution which it was intended to be and is,<sup>52</sup> "the rest day of the working classes" which, on the seventh day of the week, foreshadows the seventh year in which the slave will be completely liberated, then social obscurantism is being engaged in which, by disguising the

<sup>50</sup> *Juedische Schriften*, vol. 3, pp. 171, 174.

<sup>51</sup> *Ibid.*, vol. 1, p. 330.

<sup>52</sup> *Ibid.*, vol. 2, p. 70.

humane purposes of the origin, makes impossible the humane improvement of the future. "The belief that something comes from God or the gods is the expression of scientific bafflement and means nothing but the confession: we cannot, or we will not explain it in terms of man." After all, not only good things but also evil ones have always been explained and justified as divine institutions and, furthermore, does not everything ultimately come from God? Why then isolate one thing?<sup>53</sup>

### SPECIFICS OF SOCIALIST POLICY

Cohen, being a philosopher, pursued the business of elaborating a technical epistemology, a generalized theory of ethics and esthetics and even wrote a theology. It cannot be expected of him that he should also devise the details of a political program. His ideology of socialism remains, therefore, necessarily broad in outline. Nevertheless, with the sense for reality which he possessed and with his ethical and social enthusiasm which he also demonstrated in his active participation in Jewish community affairs, references are strewn throughout his writings which indicate some of the specific social alterations which he subsumed under the name of socialism.

We have already seen that socialism meant for him that eventually the distinction between ruler and ruled will be obliterated, that the people will rule themselves in a complete democracy.

It was a dictum with him, that "all values are created by labor"<sup>54</sup> (a phrase not unreminiscent of Marx). Quite apart from the truth of this proposition, if only on the grounds of Kant's categorical imperative, the worker must never be used, as is too easily the case in capitalist society, merely as a means of economic production and for the enrichment of his employer. The worker also is an end in himself.<sup>55</sup> Therefore, "a person has not value but dignity. Is the concept of the market value of labor compatible with the dignity of man? This is the great question of modern politics and of modern ethics."<sup>56</sup> The trouble is that, in advanced capitalism, the laborer is actually degraded beneath the level of the earlier laborer. While the worker used to be at least definable as a person who produces economic value by working on the land or in the factory, in all cases actually creating new economic objects, the modern proletarian does not even produce. He is only a cog in the wheels of communication which has assumed such central importance in our society. He merely transports.<sup>57</sup> And Cohen comes

<sup>53</sup> *Ibid.*, p. 48.

<sup>55</sup> Lange, *op. cit.*, p. 525.

<sup>57</sup> *Ibid.*, p. 293 f.

<sup>54</sup> Cf. Kaplan, *op. cit.*, p. 32.

<sup>56</sup> *Ethik*, p. 305.



even closer than this to Marx's germinal concept of the degradation of the worker through the system of surplus-value. As Kinkel put it, "Is it really true that the worker's product is his property as is the case with the capitalist's product? This question, repeated from Marx (by Cohen), destroys the entire mythology of capital."<sup>58</sup> And, as Atlas repeats, Cohen declares that the surplus-value theory is based on ethical assumptions, for what other reasons than ethical ones exist to protest the appropriation of a man's product by another?<sup>59</sup> Only two structures can lessen the severities of such private profit and property: the state<sup>60</sup> in its ideal functionings, and labor unions which, even on juridico-philosophical grounds, Cohen regards as the ideal of ethical, because legal, persons.<sup>61</sup> Compared to these monstrous extremes of capitalist society, even militarism is a lesser, though by no means inconsiderable, evil which may sometimes be used as a bogey-man to divert the people's attention from the real forces which manipulate it.<sup>62</sup> It must be remembered that Cohen wrote this sentence during the first World War in which he fervently supported the cause of German arms.

Needless to say Cohen opposed capital punishment. It is worth retracing the philosophical argumentation which caused him to take this position: execution is the most evil of all legal actions, for it cannot have any conceivable moral or constructive purpose. It constitutes not betterment but "the annihilation of the moral personality," for without life there can be no ethical person. Furthermore, law is moral only so long as the person subject to it shares in its legislation and responsibilities; but a dead person is outside the law.<sup>63</sup>

Finally, socialism meant to Cohen something that his temporal and geographical conditions required, namely, the demand for schools of universal, public, and compulsory education. These did not as yet exist in the Germany of the Kaiser, and universal education is, of course, the necessary corollary of the previously indicated plank which makes universal human rationality the basis of democracy.<sup>64</sup>

<sup>58</sup> *Op. cit.*, p. 241.

<sup>59</sup> Samuel Atlas, *Zur erkenntnistheoretischen Grundlegung der Geschichte*, in *Archiv fuer systematische Philosophie und Soziologie*, vol. XXXI, nos. 3 f., p. 232.

<sup>60</sup> Kinkel, *op. cit.*, p. 197.

<sup>61</sup> *Ethik*, p. 74.

<sup>62</sup> *Deutschtum und Judentum*, p. 49.

<sup>63</sup> Cf. Kinkel, *op. cit.*, p. 215.

<sup>64</sup> Lange, *op. cit.*, p. 534. Chayim Greenberg, *The Inner Eye*, p. 264 tells of an actual encounter on the field of socialist controversy between Cohen and Lenin. He gives no source, but the character of Greenberg and the internal verisimilitude of the story commend it: Lenin wrote that Cohen's demand for the teaching of higher mathematics in the last years of German high-schools was a bourgeois attempt to

## THE PLACE OF ISRAEL

We have already noted that, at several crucial points, Cohen's socialism is based on religious premises which he obtains from the Bible. Thus God is the guarantor of the eternity of nature required to make possible the infinity of the ethical, socialist tasks. Thus also prophetism and its messianism are for Cohen the inventors, discoverers, and synonyms for socialism. Since Christianity and Judaism, as well as all religions which Cohen would regard as genuinely rational and ethical, have these factors largely in common, the only advantage of Judaism — to which Cohen, of course, throughout his life passionately and actively adhered — is that it possessed them first in time. For a rationalist like Cohen, such a temporal difference would at first appear to be incidental and unessential, even if it be granted that Judaism continues to possess them in a purer and less adulterated form than do the others. But the fact is, in Cohen's view, that this temporal difference is also an essential one; for, in accordance with his "philosophy of origin," originality denotes purity, and on the purity of the rational, messianic faith depends, of course, the desired purity of the messianic society.<sup>65</sup>

That Biblical Judaism, together with its natural continuation through the Talmud, represents this pure, rational, messianic and therefore socialist faith is proved by the fact that it never sinks into the morass of mysticism or unworldly escapism. Rather, it always takes religion out of the theological and speculative realm into the historical world of humanity by concretizing itself in social, moral, and even political statutes.<sup>66</sup> Indeed, Cohen's admiration for and adherence to this concept of ethical and political religion in the form of Judaism goes so far that, even though, on modern and national grounds, he is a strong advocate of the separation of state and church, he nevertheless maintains that the peculiar Jewish mixture of religion and civil legislation, which characterizes Bible and Talmud, is also typical of the messianic society, correctly understood, and that, therefore, whatever its dangers, theocracy is the term describing the laudable permeation of politics with ethics in historical as well as in the messianic society.<sup>67</sup>

So far as the Jewish people is concerned, it exists exclusively in order to perpetuate the teachings of the prophets and to carry them to all mankind. And, if it should be argued that an ideology does not

befuddle and direct the minds of young adults just when they are ready to become associated with revolutionary activities.(!)

<sup>65</sup> *Religion der Vernunft*, p. 39.

<sup>66</sup> *Ibid.*, p. 28.

<sup>67</sup> *Ibid.*, p. 300; *Ethik*, p. 58.

require the continued existence of one particular social unit for its perpetuation, as Achad Ha'am did in his famous essay "Slavery in the Midst of Freedom," Cohen argues, in rebuttal, that this is generally true of other aspects of culture but not of monotheism. The latter, due to the necessity of a purity which can be fulfilled only by the originators, could not be maintained for the benefit of mankind at large by any but its creators: "One mankind could come to be under only one God. This One God was found only by one people . . . This one people must perpetuate it."<sup>68</sup> Along with this insistence on the necessity for the survival of Israel goes, in Cohen's ideology, a severe anti-Zionism. The people must survive but not its state. In fact, "the destruction of the Jewish state is for us the model of historical theodicy. It is our proud belief that we live *among* the nations as a divine dew and remain productive among them and for them."<sup>69</sup> The homelessness of the Jewish people — a term which Cohen, incidentally, rejected because he insisted that we are at home and want to be more at home wherever we are — is the great historic symbol through which the Jewish people in its actual life foreshadows the future federation of states and the universal reign of God. "The One God deprived us of our fatherland in order to give it back to us in the form of humanity . . . To induce the whole world truly to acknowledge this one God — that is our task in world-history."<sup>70</sup>

It is true that Jewish history, as a result of this messianic dispersion, is a history of martyrdom and suffering. But, then, such is the fate of the Messiah, who vicariously takes the injustices and cruelties of an imperfect world ever upon his shoulders. The prophets already predicted this in the figure of the "suffering servant of God," who suffered precisely because he was the carrier of salvation to all other men, and also in order to indicate his social mission, which is primarily concerned with the poor and the miserable. It is for this very reason that his identity was changed from the royal "son of David" to the poor and unknown sufferer.<sup>71</sup>

### CONCLUSION

There are a number of serious problems which suggest themselves as we consider Cohen's philosophy of socialism. These have reference both to the philosophical underpinnings as well as to the political ideology itself.

<sup>68</sup> *Ibid.*, p. 269.

<sup>69</sup> *Juedische Schriften*, vol. 2, p. 335.

<sup>70</sup> Cf. Kinkel, *op. cit.*, p. 264.

<sup>71</sup> *Religion der Vernunft*, pp. 304, 312 f.; cf. Kinkel, *op. cit.*, p. 255.

In the first place, Cohen's concept of God, crucial and basic as it is to his entire system, is the result, admittedly, of this simple line of thought: psychologically men need the assurance that the things in which they profoundly believe and to which they are to devote themselves wholeheartedly must eventually come to pass. This assurance can only be given by God; therefore, there must be and is God. Now to derive objective, even if not ontological but ideal reality, from need is always a bad argument; it is worse when it is based on psychological need; and it seems worst of all when it comes from a philosopher who explicitly abjures psychologizing logic!

But, even if the argument should be accepted as valid, Guttman's objection then becomes the more cogent: "In this connection the further question arises, which can be fully answered only after Cohen's concept of reality will have been completely clarified, whether this function does not go beyond the character and capability of a God defined as an ideal, — whether God must not be conceived as a highest reality (in the ontological sense) in order to be able, as the determining power, to guarantee the realization of the ethical ideal in the processes of nature."<sup>72</sup>

This very convincing objection of Guttman's can legitimately be carried yet a step further. It can be applied also to Cohen's conception of messianism. Cohen regarded the concept of a personal, individual, Messiah rather contemptuously as a naïve and mythological formulation for the rational idea of the messianic age. But he did so not for the reason current among the 19th century Jewish liberals, namely, that the belief in the personal Messiah is a belief in miracles and that miracles conflict with the scientific spirit of the age. To him messianism meant the infinite approximation to the infinitely ideal society in history. Now exactly what is the approximation to infinity supposed to mean? Cohen always compares it with the mathematical curve of an asymptote which approximates an axis into infinity without ever reaching it. But the very point of the concept of infinity would seem to be that, however far you go toward it, you are in the end — or rather not at the end — just as far away from it as you were in the beginning! Progress thus becomes an illusion, indispensable though it was to Cohen's view of history. Therefore, if there is to be any guarantee that the socialist ideal will be reached, this guarantee cannot be given by the concept of infinity, and the Marxist accusation of utopianism stands unrefuted. The fact is that the guarantee can be given only if, in the first place, one believes that the infinite and infinitely small

<sup>72</sup> *Op. cit.*, p. 351.

distance between asymptote and axis will eventually be bridged, and if, in the second place, one is ready to believe that, for this purpose, the rational, mathematical infinite distance will be irrationally and unscientifically overcome. But such a belief is a belief in miracle; consequently there would exist no further justification for frowning upon the unscientific concept of a personal Messiah. In other words, as Guttman wonders whether the ideal character of Cohen's God satisfies his own requirement of guaranteeing the infinity of nature, so we must wonder whether the impersonal character of the Messiah satisfies his own requirement that the eventual reality of the messianic, socialist society be guaranteed.

Actually, when one centers one's attention for a while not so much on Cohen's method, which is admirable and enduring, but on the specific content of his thought, it becomes painfully obvious that this content consists exclusively, or at least overwhelmingly, of the commonplaces marking 19th century optimistic liberal religion and liberal philosophy of history: the concept of God as an idea and ideal, the Messiah as an age rather than a person, the overpowering stress on the prophetic rather than on the legal aspects of the Bible, the belief in the mission of Israel which consists of nought but the spreading of universal, rational and ethical tenets, the opposition to Zionism on messianic grounds, the belief in inevitable progress, gradualistic socialism, and the like.

On the political level, this optimistic rationalism expressed itself, in the case of Cohen, not only in a reliance on the German state — which history since his time has tragically disposed of and about which it is more merciful to keep silent — but also in an excessive dependence on the concept of the state as such. One may venture to suggest that, even in his time, there were indications of the tempting pitfalls created by this ideology of the state. It is hard to read Cohen's repeated statement that, while the people only constitutes the natural, biological unity, the state constitutes the ideal unity of a particular society, without thinking of Heine's bitter quip about the Prussia in which censorship was justified and glorified as bringing about that "ideal unity." Furthermore, any praise of socialism — such as Cohen uttered — on the grounds that it helps the empirical state to defend law and order, should make us suspicious; one would think that, from a socialist point of view, it is dubious praise indeed! The fact is that, though he believed he recognized ideality in it, Cohen lived in a Germany which had just attained its national unity; understandably he fell prey to the assumption that the state is a necessary human institution — an assumption which neither history nor philos-



ophy warrants. If Cohen could say that "the state makes it clear beyond all doubt, particularly in our time, that man puts his higher metabolism into circulation in the organism of his state,"<sup>73</sup> then we, with our experience of the state, may retort that, in our time, we have come to know this organism in an entirely different, yes, in a threatening light. Still, it must be held to his credit that Cohen, at the very climax of his most Germanistic, anti-Zionist, state-intoxicated broadsheet, *Germanism and Judaism*, leaves himself an opening out of his assimilationist impasse — though he can hardly even conceive of the theoretical necessity for it: "A Germanism which would demand from me that I divest myself of my religion and my religious inheritance, — such a Germanism I would not acknowledge as an ideal peoplehood with the right to the power and dignity of statehood . . . . Were I born into such a peoplehood or such a statehood, I would then regard myself as entitled to claim 'a publicly and legally insured home' " (the phrase in the Basle platform of the Zionist Congress formulating its aspirations in Palestine).<sup>74</sup>

Kant, at one point, said that the occurrence of the glorious French revolution in his time constituted an irrefutable proof of the basic goodness of man, for it was to his generation a *signum rememorativum, demonstrativum, prognosticum*.<sup>75</sup> Cohen also recognized such *signa* all over the landscape of his generation. One marvels what the *signa rememorativa, demonstrativa et prognostica* for humanity in our age are to be — our wars, the H-bomb, the annihilation of European Jewry or the advancing degeneration of libertarian democracy throughout the world?

All this is not to deny the effectiveness of Cohen's methodology in the philosophy of history which resulted in his concept of social democracy. But it may cause one to pause and re-think the details of his ideology and to consider whether the rejection of eschatology by the 19th century, in favor of rationalistic messianism, satisfies the requirements of human reason.

<sup>73</sup> *Religion der Vernunft*, p. 16.

<sup>74</sup> *Op. cit.*, pp. 57 f.

<sup>75</sup> *Streit der Fakultäten*, 2, 3-7.

[הי"ד]. אין מקדשין אלא על היין הראוי לנסך על גבי המזבח  
לפיכך אם נתערב בו דבש או שאור אפילו כטפת חרדל אין  
מקדשין עליו.

פירש מפרש גבי ד' כוסות שיוצאין בקונדיטון שקורין פימינט והוא כמו עמלין  
שהוא מין דבש ופלפלין.<sup>241</sup>

סליקו להו הלכות שבת בריך רחמנא דסייען אמו.

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<sup>241</sup> וכן כתב הראב"ד, ועי' גם במ"מ מה שהביא בשם הגאונים לחלק בין יין הפסול  
מחמת עצמו ובין יין שאינו פסול מחמת עצמו אלא משום שנתערב בו דבש שאינו נקרב  
על גבי המזבח.

הגהה: הרי"ף פסק ואח"כ שארי<sup>236</sup> המוציא. ונראין דברי הרב ר' משה שאינו מזכיר המוציא, שאם צריך לברך המוציא על מה שעתיד לאכול, היה צריך לברך ברכת המזון על מה שאכל למפרע, וזהו כרבי יהודה דאמר מפסיקים לקדוש, ושמואל אמר אין הלכה כרבי יהודה.<sup>237</sup>

[שם]. היה אוכל בשבת ויצא שבת והוא בתוך סעודתו גומר סעודתו ונוטל ידיו ומברך ברכת המזון על הכוס ואח"כ מבדיל עליו.

הגהה: לא ידעתי למה פסק שאומר ברכת המזון והבדלה בכוס אחד, דהא ודאי ברכת המזון והבדלה תרתי מילי נינהו, ואיהו גופיה פסק בסמוך<sup>238</sup> דאין אומרין ברכת המזון וקדוש בכוס אחד לפי שאין עושין שתי מצות על כוס אחד, וכמו כן היה לו לומר בהבדלה. וההוא דאמר ר' יהודה לא נחלקו ב"ש וב"ה על המזון שהוא בתחילה,<sup>239</sup> באין לו אלא כוס אחד מפרשי לה רבותי. והכי נראה עיקר דהא קיי"ל דאין עושין מצות חבילות חבילות.<sup>240</sup>

הרמב"ם, ומסיים את דבריו: וכן הם דברי הרמב"ם ז"ל וכו' וראיתי לאחרים שלא פירשו כן. דברי הר"ן והרמ"ך עולים בקנה אחד, כי שניהם מעירים שדעת הרמב"ם היא בניגוד לדעת מפרשים אחרים שפירשו באופן אחר.

<sup>236</sup> פי' המלה "שאר", כלומר יתיר את עצמו להמשיך את סעודתו ע"י ברכת המוציא. וקושית הרמ"ך על הרי"ף היא כקושית הר"ז. ועי' בר"ן לפסחים, שם, שהביא את קושית הר"ז. אם איתא דשרי המוציא, אף ברכת המזון נמי הוה צריך מקמי דשאר ליה, שלא מצינו ברכת המזון אחת לב' ברכות של המוציא וכו', ועי' המשך דברי הר"ן מה שכתב ביישוב קושית הר"ז. ועי' גם במ"מ שהביא את דברי הרי"ף והקשה עליו כמ"כ.

<sup>237</sup> פסחים, ק' א'.

<sup>238</sup> הל' י"ג. ודברי הרמ"ך עולים בקנה אחד עם השגת הראב"ד שכתב: והוא שאין לו אלא אותו הכוס. ועי' במ"מ שדן בזה והביא את דברי המפרשים שהקשו על הרמב"ם כקושית הרמ"ך, והעלו דקדושא ואבדלחא דרא מלהא היא ויכול לאמרן על כוס אחד, ברכת המזון וקדושא תרי מילי נינהו וכו', ועי' סוף דברי המ"מ בבאור דעת הרמב"ם. דברכת המזון והבדלה הכל הוא על מה שעבר, שחייב ההבדלה אינו בשביל הזמן ההוא והעתיד שהוא הול, אלא בשביל הזמן שעבר שהיה שבת. כל' קידוש והבדלה הם, חדא מילתא ולפיכך יש לברך ברכת ההבדלה וברכת המזון על כוס אחד משום שחייב ההבדלה אינו בשביל הזמן ההוא והעתיד אלא בשביל הזמן שעבר שהיה שבת. דבריו אלה עולים בקנה אחד עם מה שכתבנו לעיל, בהערה<sup>232</sup>, שהבדלה היא כעין קידוש ביציאתה של שבת, ולפיכך יש לאמרה על כוס אחד עם ברכת המזון של סעודת שבת ביציאתה של שבת, משא"כ בברכת המזון על סעודתו שאכל בע"ש וחשכה עליו השמש, שהסעודה אינה סעודת שבת, שאין לקדש את השבת על כוס אחר עם ברכת המזון, כי קידוש וברכת המזון, תרי מילי נינהו.

<sup>239</sup> ברכות, נ"ב א'.

<sup>240</sup> פסחים, ק"ב ב'.

יכול לקדש שכבר נטל ידיו, והוא הוקשה לו מרב שהיה מקדש על הפת כשחביב לו הפת, וכיון דיכולים לקדש על הפת זה שנטל ידיו יקדש על הפת. והשתא אתי שפיר ההיא דב"ה דמוזגים לו הכוס ואח"כ נוטל הידים משום דתכף לנטילת ידים סעודה.<sup>235</sup> ונכון הוא זה הפירוש אעפ"י שאינו הולך לדעת הגאונים ולדעת המפרשים ז"ל.

[ה"ב]. היה אוכל בערב שבת וקדש עליו היום והוא בתוך הסעודה פורס מפה על השלחן ומקדש וסועד סעודתו ואח"כ מברך ברכת המזון.

מהא דרב, שבדאי היה נוטל את ידיו טרם שקידש על הפת, וראה מזה שאין הקידוש הפסק והיסח הדעת.

<sup>235</sup> כלומר דברי בית הלל בברכות, נ"א ע"א, מוזגין את הכוס ואח"כ נוטלין לידים. והטעם הוא בגמ' שם משום דתכף לנטילת ידים סעודה. ועי' בחוס' פסחים, שם, ד"ה זימנין, שהקשו מהא דב"ה, הסוברים רמזית הכוס היא הפסק והיסח הדעת, על רב שהיה מקדש על הפת אחרי שנטל את ידיו, ומשמע שקידוש אינו הפסק, ומ"ש קידוש ממזיגת הכוס? ותירצו להבחין בין שניהם. ודברי הרמ"ך: "והשתא אתי שפיר ההיא דב"ה יש לפרשם בשני אופנים. ראשית שדברי ב"ה מהאימים להא דאמרו בראשית הסוגיא בשם רב. הנוטל ידיו לא יקדש", כלומר שלא יקדש לא על היין ולא על הפת משום דקידוש הרי הוא הפסק כמזיגת הכוס. ושנית אפשר לפרש דבריו, שר"ל שאין סתירה בין הא דאמרו על רב שהיה מקדש על הפת אחרי שנטל את ידיו ואין הקידוש הפסק ובין דברי ב"ה שמזיגת הכוס הרי היא הפסק בין נטילה לאכילה, כי יש להבחין בין שניהם, וכדברי התוס' הסוברים שמזיגת הכוס הרי היא הפסק אבל קידוש אינו הפסק.

ועי' בהגהות מימוניות שכתב לדברי הרמב"ם, ה"ו: "ומברך על היין תחלה ואח"כ מקדש ואינו נוטל את ידיו עד שיקדש", וז"ל: "כב"ה דאמר בפ' אלו דברים מוזגים את הכוס ואח"כ נוטלים לידים חתף לנטילה ברכה. ומצאתי בשם רב עמרם גאון הנוטל ידיו לא יקדש מ"ט דין אין צריך נטילה וכו', וכיון דנטל ידיו עקר דעתיה מן היין ושם על הפת לפיכך אם נטל לא יקדש". מדבריו אלה אפשר לאמר שאם נטל ידיו לא יקדש לא על היין ולא על הפת, על היין משום הפסק שבין נטילה ואכילה, ועל הפת לא יקדש משום שאין מקדשין על הפת. וכ"ה גם דעת הר"ת, הביאה בעל הגהות מיימוניות פכ"ט, ס', שאין מקדשין על הפת בכלל, אלא רק על היין. ור"ת מפרש הא דאמרו בפסחים על רב, "זמנין דחביבא ליה ריפתא מקדש אריפתא", כלומר סמוך לאכילתו, "שהיה נוטל ידיו ומקדש על היין ומיד אוכל כעין שאנו עושים וכו'". ואולי לדברי רב עמרם גאון אלה ולדעת ר"ת כיוון הרמ"ך בכתבו בסוף דבריו: "אעפ"י שאינו הולך לדעת הגאונים ולדעת המפרשים ז"ל". אמנם ב"שבלי הלקט" סימן ס', הביא את דברי רב עמרם גאון במלואם ובוה"ל: לפיכך אם נטל ידיו לא יקדש על היין אלא על הפת. והוא כפסקו של הרמב"ם ולא כדעת הר"ת. ועי' באוצר הגאונים לרב"מ לז"ה שהביא את דברי רב עמרם גאון בזה"ל: "נטל ידיו לא יקדש על היין [אלא על הפת]". הוספה זו "אלא על הפת" לא היתה בכת"י שלפניו, והמל"ה הכניחה עפ"י "שבלי הלקט" ומקורות אחרים. ואפשר לפי"ז ששנו הגירסאות בדברי רב עמרם, והמקור שהיה לפני הרמ"ך לא גרס את הדברים "אלא על הפת". ועי' בר"ן לפסחים, שם, שמפרש את דעת הר"ף כפי"ה הרמ"ך בדברי

היא היאך פשט המנהג כמו שכתב הרב בפנים. מ"מ נראה כי הנר יכול להדליק קודם הבדלה דכיון דצורך הבדלה היא להדליק הנר תחילה לא מקרי מלאכה, אבל ממלאכה אחרת נראין דברי הרי"ף ז"ל שאסר.

[ה"י]. מי שנתכוין לקדש על היין בלילי שבת ושכח ונטל ידיו קודם שיקדש הרי זה מקדש על הפת ולא על היין אחר שנטל ידיו לסעודה.

הגהה: נראה כי הוא מפרש לשמעתא הכי, נטל ידיו לא יקדש כלל לא על היין ולא על הפת,<sup>234</sup> שהיה סבור שאין מקדשין על הפת אפי' לא נטל ועל היין אינו

בעלמא וכו'. ומשמע מדבריו שאומרין המבדיל בלי שם ובלי כוס. אבל בר"ח, שם, כתוב: אבל צריך להזכיר ברכה בשם ומלכות. והרמב"ם חפס בשיטת רש"י, שמוחר במלאכה אחרי שאמר המבדיל בלי כוס. ומשמע גם שהוא אומר המבדיל בלי שם. אמנם הרי"ף בשבת, שם, הביא הא דשמואל בהוספת דברי רבי נתן, בין הנהות שנו, ומשמע שאסור לעסוק במלאכה טרם שהבדיל על הכוס. ואח"כ הביא הא דמערבא והוסיף הרי"ף: כלומר אינו צריך לומר בין אור לחושך כולו אלא בא"י א"מ המבדיל בין קודש לחול בלבד. ומשמע שהוא מפרש הא דמערבא לא כהולקים על דברי שמואל אלא כבאור לדבריו. הרי"ף פוסק, איפוא, שאין לעשות שום מלאכה טרם שהבדיל על הכוס בשם, אלא שאינו צריך לאמר כל ההבדלות מלבד המבדיל בין קודש לחול. ועי' בר"ן שהוא כמ"כ פירש את שיטת הרי"ף, ובסוף דבריו כרב: "והרמב"ם ז"ל סתם הדברים ולא פירשן בפרק כ"ט מהל' שבת". אולם הרמ"ך הבין את דעת הרמב"ם שמוחר במלאכה אחרי שהבדיל בלי כוס ובלי ברכה. הרמב"ם פירש איפוא את דברי מערבא כהולקים על שמואל, וכפירושו של רש"י. ועי' גם ברי"ף בפ' ערבי פסחים, ז"ל: "ובפרק שוואל אדם מחבירו נמי אמרינן אמר רב אשי כי הוין בי רב כהנא הוה אמרינן המבדיל בין קודש לחול ואפכין סילתי (סוף הסוגיא דשבת שם), אפילו הכי נהנו העם לאמר שלש וקיימא לן בכי הא דמנהגא מילתא היא וכו'". כלומר עפ"י דין אינו צריך להבדיל שלש אלא המבדיל בין קודש לחול בלבד. אבל מן המנהג להבדיל את שלש ההבדלות. ועי' שם בר"ן שנוטה לפסוק כדעת רש"י, שמוחר לעסוק במלאכה אחרי שאמר המבדיל בין קודש לחול, בלי שם ובלי כוס, כי להיחר מלאכה בכל דהו סגי לך, אולם באכילה אסור טרם שהבדיל שלש ההבדלות בכוס.

וב"אוצר הגאונים" לב"מ לוין לשבת, שם, כתוב: "והלכתא המבדיל בתפלה מותר לעשות צרכיו קודם שיבדיל על הכוס וכו', ואם לא הבדיל בתפלה ולא על הכוס וצריך לצאת לדרך או לעשות צרכיו אומר (בא"י) המבדיל בין קודש לחול וכו' (ועושה צרכיו). לפי שיטה זו צריך לאמר המבדיל וכו' רק אם לא הבדיל בתפלה. אמנם מדברי הרמב"ם, ומאחר שיבדיל ויאמר בין קודש לחול מותר לו לעשות מלאכה אין להחליט אם כוונתו היא שאם הבדיל בתפלה בלבד מותר לו לעשות מלאכה, או שצריך להבדיל שוב אחרי שהבדיל בתפלה.

<sup>234</sup> כלומר הא דאמר רב ברונא אמר רב, פסחים, ק"ו א', הנוטל ידיו לא יקדש, פירושו הוא שלא יקדש כלל לא על הפת ולא על היין. והקשו שם מהא דרב שהיה מקדש על הפת כשחביב לו הפת, וא"כ זה שנטל ידיו ואינו יכול לקדש על היין משום הפסוק והיסח הדעת, יקדש על הפת. וכן פי' רש"י שם: נטל ידיו לא יקדש דקידושא מפסיק בין נטילה לאכילה והוי כהיסח הדעת וכו'. והוא כפי' הרמ"ך בדברי הגמ'. והקשו בגמ'



[ה"ו]. ואעפ"י שהבדיל בתפלה צריך להבדיל על הכוס ומאחר שיבדיל ויאמר בין קדש לחול מותר לו לעשות מלאכה ואעפ"י שלא הבדיל על הכוס.

הגהה: לא פירש כן הרי"א פ"ז ל במסכת שבת כי הוא פסק דאפילו למלאכה צריך שיבדיל על הכוס אך אינו צריך להאריך בהבדלות לומר בין אור לחשך. וכן נראה מסוגיית ההלכה דאפילו למלאכה אמרינן המבדיל בתפלה צריך שיבדיל על הכוס, ומוקי ההיא דמחשיכין על התחום בבין הגתות דאית ליה כוס בשדה.<sup>233</sup> ותימה

מקדשין על היין בכניסתו, אין לי אלא קדושה ליום, קדושה ללילה מניין? ת"ל ושמרתם את השבת וכו'. ובגמ' פסחים, ק"ו א', התקשו בבאור הדברים ותקנו את נוסח המכילה: "אלא ה"ק וכו' אין לי אלא בלילה, ביום מניין? ת"ל זכור וכו' ". אולם בספר "זה ינחמנו" על המכילה כתב לקיים את הגירסא במכילה בניגוד לדברי הגמ' פסחים, ח"ל: "ואפשר לומר עוד לפי גרסתנו דסבירא להמכילה שקידוש והבדלה שניהם מדברי הורה, וה"ק אין לי אלא קדושה ליום השבת בכניסתו, קדושה ללילה ביציאתו מניין לזכור ולקדשו בהבדלה? ת"ל ושמרתם וכו', ושמירה נאמר על יציאתו כדלעיל שמור ביציאתו. כוונתו לראשית הדברים במכילה שם: "זכור ושכור שניהם נאמרו בריבוי אדר וכו' זכור מלפניו ושמור מאדרי, מכאן אמרו מוסיפין מדול על הקדוש". ואפשר לפרש, "שכור מאדרי" שכוונת הדברים היא לשמירה ע"י זכירת דברים בהבדלה. ואולי ר"ל רק שהמלה "שמור" מוסבת היא ליציאת השבת, וא"כ יש להוציא מהפסוק. "ושמרתם את השבת כי קדש הוא" שחייב לזכור את קדושת השבת ביציאתו, כלומר בהבדלה. ואפשר לפי' שהמכילה עפ"י פירושו של בעל "זה ינחמנו" שמשו יסוד לדברי הרמב"ם ובעל ספר החינוך, עדין הברלה הוא צד ואופן של קידוש היום, ומקורו בפסוק. "זכור את יום השבת לקדשו". ואפשר גם, שפירוש הגמ' בפסחים, ק"ב ב': "הבדלה וקידוש הרא מילתא היא", הוא לאמר שהבדלה וקידוש הם אופנים שונים של קידוש היום ושניהם נתכוונו להבדיל בין קדוש לחול או להבחין בין קדוש לקדוש, ולפיכך אפשר לאמרם על כוס אדר ביו"ט שחל במוצ"ש, משא"כ ברכת המזון וקידוש ששני דברים שונים הם. ומעתה יש להוכיח מגמ' זו שהבדלה היא צד ואופן של קידוש. ומעניין להעיר שהרי"ף בפסחים, שם, הביא את דברי הגמ' האלה והוסיף נוסף משלו, ח"ל: "ואי קשיא לך י"ט אחר שבת דאמר רבא יקנה"ז דאלמא אמרינן שתי קדושות על כוס אדר, ההם לא ב' קדושות הן דקידוש ואברלתא חדא מילתא היא". מדבריו שהוסיף, "ההם לאו ב' קדושות הן" יוצא שהבדלה היא צד ואופן של קידוש היום. והוא לא כפירוש רש"י והרשב"ם שם שכתבו שהם דבר אחד דהואיל ושניהם משום קדושת יו"ט הן, כי בהבדלה עצמה הוא מזכיר קדושת יו"ט, דהמבדיל בין קדוש לקדוש הוא מברך. כלומר הם פירשו שהבדלה מיוחדת זו שמברכים ביו"ט שחל במוצ"ש יש בה משום קידוש, ולפיכך קידוש והבדלה דבר אחד הם. אבל יש לפרש ולאמר שהבדלה בכלל יש בה משום צד ואופן של קידוש. ועי' גם הר"ח בפסחים, שם, שהוא מפרש את הדברים "חדא מילתא היא" משום ששניהם נאמרינן לפני אכילה.

<sup>233</sup> עי' שבת, ק"ג ב': "והאמר רב יהודה אמר שמואל המבדיל בתפלה צריך שיבדיל על הכוס וכו' תרגמא רבי נתן בר אמי קמיה דרבא בין הגיתות שנו". לפי זה אסור לעשות חפציו קודם שיבדיל על הכוס. אבל בסוף הסוגיא שנו: במערכא אמרינן הכי המבדיל בין קודש לחול ועבדינן צורכין. ופי' רש"י: המבדיל בין קודש לחול להיכרא

[ה"ג]. ומטלטלין כנונא מפני עפרו אע"פ שיש עליו שבירי עצים לפי שהוא כגוף של רעי.

הגהה: תימה גדול הוא זה דבגמרא דוחה אותו מפני שני טעמים חדא דגרף רעי מאיס והאי לא מאיס, ועוד דגרף של רעי מיגלי והאי מיכסי.<sup>231</sup> ורבא מפרש בה טעמא אחרינא בגמרא, וקיי"ל דכל היכא דפליגי אביי ורבא הלכתא כרבא בר מיצ"ל קג"ם. וצ"ע.

פרק עשרים ותשעה [ה"ד]. ואם לא הבדיל בלילה מבדיל והולך וכו' כל היום כולו.<sup>232</sup> וכן מצאנו הגירסא בספרים מדויקים הבאים מספרד.

<sup>231</sup> בשבת, מ"ז, א': אמר רבא שתי תשובות בדבר וכו'. ואביי הוא דאמר מדידהו אנרף של ריעי. וגם המ"מ הקשה על הרמב"ם מגמ' שם, ומוכרח היה להציע גירסא אחרת בדברי הרמב"ם.

<sup>232</sup> המלה "וכו" כתובה בכת"י מעל השורה. ובשולי הגליון של הכת"י נוספו הרברים האלה: "הנהה. הרב אלפסי ז"ל גרים מבדיל והולך כל היום וכו'". ונראה שהרברים האלה נוספו לבאור המלה "וכו'", כלומר שמקור הדין, שמבדיל והולך כל היום, הוא ברי"ף. עכ"פ גירסת הרמ"ך בדברי הרמב"ם שונה מגירסת הרפוסים שלפנינו שבהם כתוב: ואם לא הבדיל בלילה מבדיל למחר ומבדיל והולך עד סוף יום שלישי. ובר"ן כתוב כמ"כ שהרי"ף גורס כלישנא דאמימר בדברי רבא, פסחים, ק"ז א': מבדיל והולך כל היום כולו. כי בגמ' שם נשנו שתי לשונות בדברי רבא. בלישנא קמא נאמר: מי שלא הבדיל במוצ"ש מבדיל והולך כל השבת כולו, ואמימר שנה: מבדיל והולך כל היום כולו. ובהד"ה אמימר פסקו כלישנא קמא, ובארו ש"כ השבת כולו" פירושם עד רביעי בשבת, עפ"י דברי ר' זירא שם, ק"ז א'. ועי' באוצר הגאונים לפסחים, עמ' 109, שגם הגאונים חלקו בזה אם מבדיל והולך כל היום כולו או עד רביעי בשבת.

ואפשר לקיים את גירסת הרמ"ך בדברי הרמב"ם עפ"י הסברה. כי דין זה, אם אינו מבדיל אלא ביום הראשון או עד רביעי בשבת, נראה שהוא תלוי בעצם טיבו של דין הבדלה, כלומר אם אינו אלא אופן וגוון של קידוש היום של שבת, או אם הוא דין בפני עצמו. דהנה הרמב"ם (פכ"ט, ה"א) הוציא דין הבדלה מפסוק ההורה "זכור את יום השבת לקדשו", כלומר קידוש והבדלה הם שני פנים של זכירת שבת, ובלשון הרמב"ם: "וצריך לזכרהו בכניסתו וביציאתו, בכניסתו בקידוש היום וביציאתו בהבדלה". הואיל והבדלה היא קידוש היום ביציאתו, אין להבדיל אלא רק ביום הראשון בלבד שאפשר לדון אותו כיציאת שבת, אבל לא בכל ימי השבוע ולא עד יום רביעי שאין כאן יציאת שבת. אולם עפ"י דעת המפרשים (הביאם המ"מ) שדין הבדלה יסודו בפסוק החורה "להבדיל בין הקודש ובין החול", כדברי הגמ' שבועות, "ח ב', דין הבדלה אין בו צד של קידוש היום אלא הוא דין בפני עצמו, אפשר להבדיל עד יום רביעי, כי אינו תלוי ביציאתה של שבת. ועי' בספר החינוך, מל"א, שכתב דברי הרמב"ם שהבדלה וקידוש הם שני אופנים של זכירת שבת ויסודם נעוץ במקור אחד, וז"ל: "לדבר דברים ביום שבת בכניסתו וכן ביציאתו שהי' בהם זכר גדולת היום ומעלתו והבדלתו לשבח משאר הימים שלפניו ואחריו שנאמר זכור את יום השבת לקדשו וכו'". כלומר מן הפסוק "זכור את יום השבת" נובע דין זה לדבר דברים לזכר גדולת היום בכניסתו בקידוש וביציאתו בהבדלה. ומקור דין קידוש היום הוא במכילתא, יתרו פ"ז, ח"ל: "לקדש בברכה מכאן אמרו

הא מלתא אמר לעיל אבל במניח נעשה כיסוי לחבית, <sup>223</sup> אלמא דמשוינן חילוק בין דבר תלוש לדבר מחובר. ועוד תימה, למה פסק כרבי יוחנן דפליג על רבן גמליאל דאמר והוא שמתוקן <sup>224</sup> והוא פסק בפסק החלון כר' אבא דאמר והוא שמתוקן, ור' אבא ור"ג תרוייהו סבירא להו דבתיקון כל שהוא סגי, וצ"ע.

**פרק עשרים וששה [ה"ב]. מכבדות של תמרה הרי הן ככלי שמלאכתו להיתר שהרי מותר לכבד בשבת.**

הגהה: הוא פסק לעיל שאסור לכבד בכל מקום אם לא היה רצפה של אבנים ובכאן פסק דמכבדות של תמרה הוי דבר שמלאכתו להיתר. <sup>225</sup> וצ"ע.

[ה"ו]. אבל שירי בגדים שאין בהם שלש על שלש אסור לטלטלם שאינם ראויים לא לעניים ולא לעשירים.

הגהה: תימה הוא זה וכי מי גרעי מחרש קטנה <sup>226</sup> שמותר לטלטלם אפילו ברשות הרבים לקנח רגליו וזו ראויה לקנח, ובהלכה דפתילת הבגד משמע שאם לא נשברה בשבת אע"פ שאין בה ג' על ג' מותר לטלטלה. והא מילתא בשירי טליתות מפרש לה הרי"פ שאין דרך לעשות מהם תשמיש בזוי. ודוקא נקט שירי פרוזמאות <sup>227</sup> ולא נקט שירי בגדים או שירי סדין, דהנהו אעפ"י שאין בהם ג' על ג' דהא חזי לקנח כל טינוף, וכן פרשו רבותי ז"ל. וצ"ע.

[ה"י]. נגר שאין בראשו קלוסטרס אם היה קשור ותלוי בדלת נועלין בו.

הגהה: בפסק החלון פסק אעפ"י שאינו קשור ותלוי והוא שיהיה מתוקן <sup>228</sup> וכאן פסק דבעי קשור ותלוי. וזה מפורש בגמרא דהא דנגר הנגרר לא אתיא כר' אבא ולא כרבנן, <sup>229</sup> וזה נוכל לתרץ אגב דוחקא לדעת רבינו יעקב, <sup>230</sup>

לחלק בין כיסוי תנור שיש לחשבו כחלקו של התנור (ובלשון הרמב"ן: „לפי שהוא כגופו“) ובין כיסוי שאר כלים המחוברים לקרקע שהם כלים בפני עצמם. <sup>223</sup> כלומר ר' יוחנן שבאר שמחלוקת חכמים ור' יוסי היא בכיסוי כלים המחוברים לקרקע (שבת, קכ"ו ע"ב), אמר לעיל, קכ"ה ע"ב, ל"ש אלא בשוכח אבל במניח נעשה כיסוי לחבית.

<sup>224</sup> שבת, קכ"ו ע"א. ור' אבא בסוף ע"ב דף קכ"ה מבאר את דברי חכמים במשנה „בין כך ובין כך פוקקין בו“: בין קשור בין שאינו קשור והוא שמתוקן.

<sup>225</sup> עי' לעיל הערה 200. ולקושיית הרמ"ך עי' במ"מ שכתב: מ"מ כיון שברצוף מותר הם מלאכתן להיתר.

<sup>226</sup> עי' שבת, קכ"ד ב': אמר ר"נ אמר שמואל חרס קטנה מותר לטלטל בחצר וכו'. ועי' ברמב"ם לעיל, הל' ג'.

<sup>227</sup> כן הוא לשון הגמ' שם, קכ"ה א'.

<sup>228</sup> עי' פכ"ב, הל' ל'.

<sup>229</sup> שבת, קכ"ו א'.

<sup>230</sup> הוא ר"י תם הביאו התוס' שם, ד"ה והמונה, וז"ל: ואפ"ה בעי ר"א קשור ותלוי יותר משאר כלי תשמיש שרי להם בתיוקונם לפי שהם תשמיש בית וכו'. ועי' גם בהשגת הראב"ד.

תימה, איך סתם דבריו, היה לו לומר בד"א בכסוי כלים המחוברים לקרקע אבל בכסוי כלים המטלטלים לא,<sup>222</sup> דעל כרחין הכי אית לן לפרושה דרבי יוחנן דאמר

<sup>222</sup> הרמ"ך שינה קצת בנוסח דברי הרמב"ם שבדפוסים. וקושייתו של הרמ"ך אינה מובנה לי, כי ברור שכוונת דברי הרמב"ם, "כל כסוי כלים נטלים בשבת" היא לכסוי כלים המטלטלים. אבל אפשר שכוונת קושייתו היא לאמר שיש דברים שאסור לטלטלם בשבת ואם הם נעשו כיסויים לדבר המטלטל, כגון במניה אבן על החבית, אסור לטלטל את החבית משום שהחבית נעשית בסיס לאבן (שבת, קכ"ה ע"ב). ומהמשך דברי הרמ"ך משמע שזו היא כוונת קושייתו.

והרמב"ם פסק כחכמים במשנה שבת, קכ"ו ע"ב, שם שנינו מחלוקת חכמים ורבי יוסי ועפ"י באורו של ר' יוחנן בגמ' שם שהמשנה דנה בכלים המחוברים לקרקע. והרמב"ם בפ' המשניות כתב: "והלכה כחכמים והוא העיקר האמתי כי כל המחובר לקרקע הרי הוא כקרקע". והוא אחז בשטת הר"ף שכתב כמו כן: "ת"ק סבר גורנין ור' יוסי סבר לא גורנין והלכה כת"ק". כלומר מחלוקתם היא אם גורנין כיסוי כלים המחוברים לקרקע שלא יטלטל שמא יבוא לטלטל כיסויי קרקעות, כגון בורות וחריצין, שכ"ע לא פליגי שאסור לטלטלם. אמנם הרא"ש בשבת שם כתב על דברי הר"ף האלה: "ונראה לי שגת סופר דאיהו גופיה הביא לעיל הא דאמר רבינא כמאן מטלטלין האידנא כסוי תנורא דמתא מחסיא דלית להו בית אחיזה כרבי אליעזר בן יעקב ור' יוסי אמר משום ראב"י ואזיל לטעמא דהכא ורב אלפס ז"ל כתב ולית הלכתא כת"ק וטעה הסופר". כלומר מדברי רבינא בשבת, קכ"ה ע"א, שמותר לטלטל כיסויי דתנור שהוא כלי המחובר לקרקע, שנאמרו בקשר עם דברי ר' יוסי שאמר משום ר' אליעזר בן יעקב, נראה שהלכה היא כר' יוסי במשנה שמותר לטלטל כיסויי כלים המחוברים לקרקע. כי דברי ר' יוסי במשנה הם עפ"י דברי ר' יוסי שאמר משום ראב"י שמותר לטלטל כיסוי תנור שאין בו אחיזה. ומאחר שהר"ף פסק כרבינא שמותר לטלטל כיסוי תנור עלינו לאמר שהוא פסק כר' יוסי. ומשנ"ז תיקן הרא"ש בדבריו. אבל מדברי הרמב"ם שהוא פסק במפורש כחכמים נראה שאין לחקן את גירסת הר"ף, ושניהם פסקו כת"ק במשנה. אלא שהם חלקו בין כיסוי קרקעות לכיסוי תנור. וכן כתב הרמב"ם אחרי פסקו שאין לטלטל כיסוי קרקעות אלא אם כן יש לו בית אחיזה: "כיסוי התנור אע"פ שאין לו בית אחיזה מותר לטלטלו". הרי בפירוש כתב שכיסוי התנור דינו שונה מכיסוי שאר הכלים המחוברים לקרקע. ולדעתי יש להבחין בסברא נכונה בין כיסוי התנור לבין כיסוי שאר כלים המחוברים לקרקע. שכן כיסוי התנור יש לחשבו כחלק בלתי נפרד מהתנור עצמו, כי אין התנור כלי שלם בלעדי הכיסוי. ובין שנעשה התנור לחמם את הבית או לאפות ולבשל בו אין הוא ממלא את תפקידו כראוי אלא ביחד עם כיסויו. ומאחר שהכיסוי משלים את התנור לכלי שלם, מותר לטלטלו אפילו אם אין לו בית אחיזה, משום שהוא נחשב כחלקו של התנור. משא"כ בכלי המחובר לקרקע כגון חבית, שהוא כלי שלם לכשעצמו, שאין מטלטלין את הכיסוי אלא א"כ יש לו בית אחיזה. ועי' ברז"ה שהקשה על הר"ף כקושיית הרא"ש, וכתב שפסקו של הר"ף כת"ק, שאין מטלטלין כיסויי כלים המחוברים לקרקע אלא א"כ יש להם בית אחיזה, כשגגה יצאה מלפניו דהא אמר רבינא כמאן מטלטלין האידנא כסויי דתנורא במתא מחסיא אע"ג דאין להם בית אחיזה כמאן כר' אליעזר בן יעקב ומעדותיו של ר' יוסי היא". והרמב"ן במלחמת ה' כתב בתשובה לקושיה זו: "אין אומרים בדברים הללו זו דומה לזו שכסוי התנור לפי שהוא כנופו שהוא עצמו מסייע באפיה נעשה ככליו עצמו וכו'". דברי הרמב"ן האלה מיוסדים, כנראה, בסברא שהצענו

פרק עשרים וארבעה [ה"י]. כל שהוא משום שבות לא גזרו עליו בין השמשות כיצד מותר לו בין השמשות לעלות באילן ולשוט על פני המים להביא לולב או שופר.

הגהה: תימה, א"כ דכל דבר מצוה מותר לעשות בין השמשות אמאי אין מערבין עירובי תחומין<sup>218</sup> והלא אין מערבין<sup>219</sup> לדבר מצוה. ונראה לפרש דברי רבנו הכי, כל שהוא משום שבות לא גזרו עליו בין השמשות שיוכל לטלו מעל גבי אילן או מכרמלית, אבל כל הדברים האחרים גזרו בבין השמשות דהא תוספת שבת דאורייתא, וצ"ע.

[ה"י] ועוד מפני שמקצת העם אינם בעלי אומנת אלא בטלים כל ימיהם.

הגהה: לא ידעתי מאין הוציא זה, ובגמ' מפרש דטלטול אינו אסור כי אם משום הוצאה שמא יטלטל ויוציא, וצ"ע<sup>220</sup>

פרק עשרים וחמשה [ה"ג]. כל כלי שמלאכתו להיתר בין של עץ או של אבן או מתכת מותר לטלטלו בשבת בין בשביל עצמו של כלי בין לצורך גופו בין לצורך מקומו.

הגהה: לדבריו אסור להסיר המפה והסכין והקערה מעל השלחן שהרי אינו מסיר כל אותם הדברים לא לצורך גופו ולא לצורך מקומו ולא בשביל עצמו של כלי, ומנהגנו לטלטל הסכין והקערות ממקום למקום, ויש סיוע מן ההלכה מהנהו בי סרייתא דהוו בשימשא<sup>221</sup> ובי סרייתא אינם מתקלקלות בשמש, וצ"ע.

[ה"י]. כל כסויי כלים ניטלין בשבת והוא שיש תורת כלי עליהן, היה כלי מחובר לקרקע כגון חבית וכיוצא בו וכן כיסוי הבור וחריצין אין מטלטלים אותם אלא אם כן יש להן בית אחיזה.

בסיקרא העשירי וביום טוב אי אפשר מפני שצובע. וכן כתבו בתוס' ד"ה משום, חגיגה דף ח' ע"א, שהסוקר בסיקרא חייב משום צובע. והרמ"ך כנראה מסכים לדעת הרמב"ם בזה, שכן הוא לא בא להשיב עליו אלא להוסיף על דבריו טעם מיוחד שאין לחייב את המעשר משום מתקן כלי.

<sup>218</sup> כוונתו להא דאמרו בגמ' שבת, ל"ד ע"א, כאן בעירובי תחומין כאן בעירובי חצרות, כלומר עירובי תחומין אין מערבין בספק חשכה.

<sup>219</sup> צריך להוסיף כאן המלה "אלא". וכוונתו לגמ' עירובין, פ"ב ע"א, אמר רב יוסף אין מערבין אלא לדבר מצוה. ועי' ברמב"ם פ"ו מה"ל עירובין, ה"ו.

<sup>220</sup> גם הראב"ד השיג על הרמב"ם כמ"כ. וגם מגמ' שבת, קכ"ד ב', מוכח שהטלטול נאסר כדי שלא יבוא לירי הוצאה. ובכ"מ הציע דברים בישוב דעת הרמב"ם.

<sup>221</sup> שבת, קכ"ד ע"ב: רב מרי בר רחל הוה ליה ההיא בי סריותא (וכרים של לבד, רש"י) בשמשא, אתא לקמיה דרבא א"ל מהו לטלטלינהו, א"ל שרי. ולפי"ז צריך לחקן בדברי הרמ"ך "סריותא" במקום "סרייתא", ואולי היתה לו גירסא אחרת.



הגהה: אעפ"י שהר"ף ז"ל כתב כדבריו, אין נראה כן מסוגיית ההלכה כמו שכתב הר"ז ז"ל.<sup>211</sup>

[הט"ו]. לפיכך אסור לדחוק מטלית או מוך בפי האשישה כדי לחותמה שמא יסחוט.

הגהה: האי דבר שאין מתכוין הוא וקיי"ל דדבר שאין מתכוין מותר. ונראה דהלכתא כרב פפא שהוא בתרא דהתיר לקנח בקרקע ולא חייש לשמא כמו רבא, וצ"ע.<sup>212</sup>

פרק עשרים ושלשה [ה"ג]. כשם שאסור לפתוח כל נקב כך אסור לסתום כל נקב.<sup>213</sup> ואפי' בקיסם או בצרור אבל אם הניח שם אוכל כדי להצניעו ונמצא הנקב נסתם מותר, ומותר להערים בדבר זה.

הגהה: תימה הוא דבגמרא מפורש בהדיא<sup>214</sup> דלא התירו אלא לצורבא מרבנן, והכי אהדר רבא<sup>215</sup> אצל הערמה בדרבנן הוא וצורבא מרבנן לא אתי להערים לכתחילה אבל אדם אחר אסור להערים, ובמס' י"ט אמרינן דבהערמה החמירו רבנן טפי ממזיד.<sup>216</sup>

[הי"ד]. ואין מעשרין את הבהמה גזירה שמא ירשום בסיקרא. הגהה: אבל אינו אסור משום מתקן כמו מעשר את התבואה, דלא טביל, דמותר לאכול מן הבהמות קודם שיתעשרו מן התורה, ואע"ג דאסור מדרבנן, לא מיקרי מתקן, וצ"ע.<sup>217</sup>

<sup>211</sup> עי' שבת, קמ"ט, א' וברי"ף וברז"ה. והר"ן השיב על הר"ה מן הירושלמי.

<sup>212</sup> עי' לעיל הערה 199.

<sup>213</sup> צ"ל כאן, וכו', כי זה לשון הרמב"ם עפ"י הרפוסים: לפיכך אסור לסתום נקב החבית ואפי' בדבר שאינו מתמרח ואינו בא לידי סחיטה כגון שיסתום בקיסם וכו'.

<sup>214</sup> עי' שבת, קל"ט ע"ב.

<sup>215</sup> הגירסא בשבת שם היא: אמר רבה בר רב הונא מערים אדם וכו'. ובהגהות הב"ח: ר' אבין. ובסוף הסוגיא: אמר להו הערמה בדרבנן היא וכו', וזו היא תשובת רב אשי לרבנן. וגם במ"מ העיר על הרמב"ם שלא חילק בין ת"ח לאדם אחר.

<sup>216</sup> דף י"ז ע"ב. ולעיקר השנתו של הרמ"ך, עי' ברא"ש, שבת שם, שכתב: לא כל הערמה במילי דרבנן שוין, יש הערמה שמותר לכל אדם כי היא דפ"ק דיו"ט, דף י"א ב', רב אדא מערים ומלח גרמא גרמא, ויש הערמה דלא שריא אלא לצורבא מרבנן כי הך דהכא, ויש הערמה דאסור לכ"ע ואחמור בה רבנן טפי ממזיד כי היא דפ"ב דיו"ט, דף י"ז ב', גבי עירובי תבשילין וכו'.

<sup>217</sup> מתוך שקבע הרמב"ם דין זה שלא יעשר בשבת שמא ירשום בסיקרא בין המלאכות השונות האסורות משום שמא יכתוב נראה ברור שדעתו היא שהירושם בסיקרא אסור משום כותב. ואע"פ שדין זה בא ברמב"ם אחרי הרברים: ואין מגביהין תרומה ומעשרות וכו'. אבל גם זה אסור משום שמא יכתוב, מלבד הטעם שהוא כמתקן, כמו שכתב המ"מ. אבל דעת רש"י ותוס' היא, שאסור לעשר בשבת משום צובע. בבכורות, נ"ז ב', כתב רש"י לדברי המשנה, ואי אפשר לעשר ביום טוב: משום סקרתא שצריך לסקור

ולאוספם, ובלבד שישנה שלא יעשה עובדין דחול, אבל אינו משום גזירת עימור, דעימור לא שייך בכי האי גוונא. וכן היו רגילים לפרש רבותי משום האי קושיא דמס' יו"ט, וצ"ע.

[הי"ז]. זורה ובורר מאבות מלאכות הם לפיכך אעפ"י שמותר למלול מלילות בראשי אצבעותיו כשהוא מנפח בידו אחת בכל כחו אבל לא בקנון ובתמחוי.<sup>207</sup>

הגהה: לא היה לו להתיר כי אם בתבלין כמו שמפרש בגמרא וכן באמינתא וכן בפיגס<sup>208</sup> וכן בשאר מיני תבליים, כלומר דכתבליים הוא דהתירו, אבל בתבואה וקטנית לא התירו. וההיא דכיצד מולל ב"ט מפרשין לה, וכן פירש הרב ר' זרחיה.<sup>209</sup>

[שם]. וכן המחבץ תולדת בורר לפיכך אעפ"י שנותנים שומשמים ואגוזים לרבש לא יחבצם בידו.

הגהה: לא הבנתי פירושו. ור"ש פירש מחבץ כשמעמיד החלב בקיבה.<sup>210</sup> ולא הבנתי מאי איסור מלאכה שייך באגוזים ושומשמים בדבש, וצ"ע.

פרק עשרים ושנים [הי"ד]. אסור לראות במראה של מתכות בשבת גזירה שמא יסיר את הנימין המדולדלין מן השער ואפי' קבוע בכותל אבל מראה שאינה של מתכות מותר לראות בה אפילו שאינה קבועה.

שפירשו כמותו, ח"ל: נראה דל"ג ואוכל מרקתני סיפא אבל לא לתוך הסל ולא לתוך הקופה משמע הנך דווקא אסירי משום עוברא דחול אבל לתוך כפו (או לתוך כסותו) שרי. ואילו היה איסורו משום עימור כדעת הרמב"ם אין להבחין בין סל וקופה ובין כפו וכסותו.<sup>207</sup> צריך לגרוס בדברי הרמב"ם שהביא: „כשהוא מנפח מנפח בידו אחת וכו'".<sup>208</sup> כוונתו להא דשנינו בשבת, קכ"ח ע"א: חבילי סאה אוזב וקורנית וכו' וחכמים אומרים מולל בראשי אצבעותיו ואוכל ובלבד שלא ימלול בידו הרבה כדרך שהוא עושה בחול וכן באמינתא וכן בפיגס (מיני עשב וירק). והרמ"ך גרס באמינתא. וכ"ה הגירסא גם ברי"ף, שבת שם, ועי' ברק"ס.

<sup>209</sup> לקושייתו זו ולדעת הר"ה עי' בר"ן לביצה, י"ב ע"ב, שכתב: ואיכא למידק דמהא משמע (כלו' מגמ' ביצה שם שנו המולל מלילות מע"ש וכו') דבשבת לא שרי למלול כלל, ואילו בפ' מפנין, (שבת, קכ"ח ע"א) אמרין חבילי סאה אוזב וכו' קוטם ואוכל וחכ"א מולל בראשי אצבעותיו ואוכל, דאלמא מותר למלול בשבת. ותירץ הר"ה ז"ל דהתם דוקא בחבילי סאה אוזב וקורנית, אבל בחבילי תבואה וקטנית לא שרינן כלל וכו'. ועפ"י דברי הר"ן שכתב שם בבאור דעת הר"ף, דבשבת מותר למלול ע"י שינוי (ומדבריו נראה שאפילו בתבואה מותר למלול בשבת ע"י שינוי), יתבאר גם דברי הרמב"ם בזה שלא חילק בין תבואה לחבלין.

<sup>210</sup> עי' רש"י שבת, צ"ח ע"א. אולם רש"י מלבד פירושו זה פירש עוד באופן אחר: ול"ג מחבץ עושה כמין גמי ונותן הקפוי בתוכו ומי החלב נוטפין. ומקור דברי הרמב"ם בשומשמן ואגוזים שמותר לתת אותם ברבש ובלבד שלא יחביצם בידו הוא בתוספתא שבת, פ"ג, כמו שהעיר המ"מ, ותמיהת הרמ"ך אינה בהירה.

[ה"ז]. פירות שנשרו בשבת אסור לאוכלם עד מוצאי שבת גזירה שמא יתלוש.

הגהה: היה לו לומר משום דהוי מוקצה מחמת איסור תלישה כמו נר שכבה שאסור.<sup>202</sup> ופירות שנשרו מפרש ר"ת שנשרו מן הענפים שנתלשו מבעוד יום ואפ"ה אסורים שמא יעלה ויתלוש כמו בשל מכבדות,<sup>203</sup> וצ"ע.

[ה"י]. היתה טעונה עששיות של זכוכית מתיר השקים והם נופלים שאעפ"י שישברו אינו הפסד גדול שלהתכה הוא עומד.

הגהה: יפה פירש אעפ"י שלא פירשו כן כל המפרשים. מ"מ תימה גדול למה התיירו טלטול גמזוי ולא התיירו בטול כלי מהיכוננו<sup>204</sup> כיון שמותרים לטלטל לצורך גופם ולצורך מקומם, ומוקצה מחמת מיאוס לא סבירא לן. ואי מיירי בכלים גדולים דמיחד להו מקום משום הפסד והוי כמוקצה מחמת חסרון כיס, היה לו לפרש לזה הרב, וצ"ע.

[ה"א]. המדבק פירות עד שיעשו גוף אחד חייב משום מעמר לפיכך מי שנתפזרו לו פירות בחצירו מלקט יד על יד ואוכל אבל לא יתן לתוך הסל שמא יכבשם בידו ויבא לידי עמור.

הגהה: תימה הוא דבי"ט אמרינן דמי שמעמיד ערמה לא הוי גמר מלאכה לשבת אע"ג דהוי גמר מלאכה למעשה,<sup>205</sup> דלא מקרי מעמר כי א"א כשלוקט אותו ממקום גידולו כמו מלחא ממלחתא.<sup>206</sup> אבל לא נתפזרו לו פירות בחצר, מותר ללוקטם

שבת, צ"ה ע"א, תר"ה והאידינא. ועי' רש"י שם לרברי הגמ', 'אמימר שרא וילחא במחזא' שכתב: "לרבץ הבית ורצפת אבנים היתה בכל העיר", משמע שרצפת אבנים מותר לרבץ. ורע"א בגליון הש"ס שם העיר לרברי רש"י, קנ"א ע"ב, שם כתב: "ואע"ג דמרחץ רצפת אבנים הוא וליכא למיחש לאשוויי גומות, מיחלף מיהא בקרקע אחר" משמע איפוא שאסור לכבר אפי' רצפת אבנים. והרמ"ך פסק כהר"י וכתש"י בשבת, קנ"א ע"ב.

<sup>202</sup> טעם הרמב"ם הוא מפורש בגמ' ביצה, ג' ע"א: "גזירה שמא יעלה ויתלוש", ובתוס' שם הקשו על דברי הגמ' כקושית הרמ"ך, ותוצו ברוחק. ועי' עוד תוס' שבת, קכ"ב ע"א, ד"ה איני שכתבו: ובריש ביצה דאסרו פירות הנושרים משום גזירה שמא יעלה ויתלוש, ולא אסר להו משום מוקצה משום דמוכנים לעורבים.

<sup>203</sup> עי' פסחים, נ"ו ע"ב: אבל בשל מכבדות ד"ה אסור גזרינן שמא יעלה ויתלוש. ועיי"ש בתר"ה מחלוקת.

<sup>204</sup> בשולי הגליון של הכת"י נוסף כאן: ותרוייהו דרבנן הם, ותמיהא לן היאך מותר ביטול וכו'.

<sup>205</sup> צ"ל: למעשר, וכוונתו לרברי הגמ' ביצה, י"ג ע"ב: ותנן נמי גבי בצלים משיעמיד ערמה ואילו גבי שבת העמדת ערמה פטור וכו', כלומר אע"ג דלענין מעשר העמדת ערמה היא גמר מלאכה אבל לענין שבת אין העמדת ערמה מלאכה.

<sup>206</sup> שבת, ע"ג ע"ב: אמר רבא האי מאן דכניף מילחא ממלחתא חייב משום מעמר, כלומר שצבר מלח ממשרפות מים חייב משום מעמר משום שרינו כמאסף בשבלים (רש"י). ולדעת הרמ"ך הוא משום שזהו מקום גידולו. ולפירוש הרמ"ך במלקט פירות שנתפזרו שאינו משום עימור אלא משום שהיא עוברא דחול, עי' שבת, קמ"ג ע"ב, בתר"ה מלקט

להזהיר גדולים על קטנים, ועל כרחין אית לן לפרש לקטן יהיב ליה כשהוא מהלך וכשהוא עומד נוטלו הימנו כדאמר גבי חמור, 196 ולזה הרב היה לו לפרש, וצ"ע.

**פרק עשרים ואחד [ה"ב].** טיט שברגלו מקנחו בכותל או בקורה אבל לא בקרקע שמא יבוא להשוות גומות.

תימה כיון דקיי"ל כרב שמעון דדבר שאין מתכוין מותר 197 אמאי אסור לקנחו בקרקע והא לא הוי פסיק רישיה דהא קאמר שמא יבוא להשוות גומות, 198 וגם אנחנו תמהים על הרי"ף ז"ל שהביא הא דרבא. והיו רגילים לתרץ רבותי כי רבא רוצה לומר אבל לא בקרקע שמא יכוין להשוות גומות, אבל דעת זה הרב לא ידעתי. 199

[ה"ג]. ואסור לכבד את הקרקע שמא ישוה גומות אלא א"כ היה רצוף באבנים.

הגהה: נראה דבריו סותרים זה את זה, כי הוא פסק כדברי הרי"ף דמכבדות של תמרה הוי דבר שמלאכתו להיתר 200 וכאן פסק דאסור לכבד, וגם תמיהא לן עליו ועל הרי"ף למה התיר לכבד כלל אפילו רצפה של אבנים והלא מזיז עפר או צורות ועצמות וקלפין, 201 וצ"ע.

מדרשת הבריתא. "לא תאכלום – לא תאכילום" יהא בזה איסור לאו, כלומר במאכיל לקטן בידים, אבל לא בגורם לקטן שיאכל מאכלות אסורות. עכ"פ מדרשה זו יוצא, שמן התורה אסור להאכיל לקטן בידים מאכלות אסורות, והוא הדין שאסור לתת לקטן להוליך את כיסו בשבת. אבל אין משום איסור לגרום לקטן שיוליך, ולפיכך כתב הרמ"ך: ועל כרחין אית לן לפרש לקטן יהיב ליה כשהוא מהלך וכו'.

196 פירושו זה בדברי הרמב"ם הוא לפי שיטת הרמב"ן והרשב"א. אמנם מדברי הרמב"ם כפשוטם אינו נראה כן. ועי' במגיד משנה שפירש את דעת הרמב"ם באופן אחר. אמנם בסוף דבריו כתב המ"מ: ומ"מ אפשר שרבינו כתב דברי הגמ' כפשוטן ואף הוא סובר כדעת המפרשים. ולפי"ז אפשר שכוונת הרמב"ם הולמת את פי' הרמ"ך.

197 עי' שבת, צ"ה ע"א, ועירובין, ק' ע"ב.

198 עי' תד"ה דילמא, שבת, קמ"א ע"א, שהקשו כמו כן, ותרצו כתיורין רבותיו של הרמ"ך.

199 הרמב"ם והרי"ף פסקו כרבא, שבת, קמ"א ע"א. ועי' בר"ן שגם הוא פירש את דעת רבא שמא יבוא לעשות גומות בכוונה, כי רבא ס"ל כר"ש, בבבצה, כ"ג ע"א, דרבר שאינו מתכוין מותר. והר"ז פסק כרב פפא המקיל ואומר אחד זה ואחר זה מותר משום דלא חיישין לרלמא אתי לאשוויי גומות ומשום דרב פפא בתרא הוא. והרמב"ן כתב לקיים את שיטת הרי"ף והרמב"ם שפסקו כרבא. וכשם שהראשונים פרשו את דעת רבא שמא יכוון להשוות גומות כן יש לפרש את דעת הרי"ף והרמב"ם.

200 עי' רמב"ם הל' שבת, פכ"ו ה"ב, שפסק: "מכבדות של תמרה וכיוצא בהן שמכבדין בהן את הקרקע הרי הן ככלי שמלאכתו להיתר שהרי מותר לכבד בשבת". הרי נראה מזה שמותר לכבד את הבית, ולפינו פסק הרמב"ם שאסור לכבד את הקרקע אא"כ היה רצוף באבנים. וגם המגיד משנה בפכ"ב העיר על הסתירה שבדברי הרמב"ם וכתב: מ"מ כיון שברצוף מותר הם מלאכתו להיתר.

201 גם הר"י פסק כן שאסור לכבד את הרצפה מפני שמזיז עפר ממקומו. עי'

[ה"ז]. היה עמו חרש וקטן נותנו לאיזה מהם שירצה.

הגהה: תימה היאך סתם דבריו והתיר לתת לקטן להוליכו להדיא, וכי משום הפסד ממון התירו לעבור על מה שכתוב בתורה לא תאכלום לא תאכילום כתיב, 195

וחידוש גדול הוא שהמשנה צריכה היתה להשמיענו. ומה שכתב: „ואמסקנא לא קשיא מדי, רכיון דלא עביר עקירה והנחה אפילו משום שביתת בהמתו ליכא, אינו מסתבר שלא יעבור משום שביתת בהמתו כשאין עקירה והנחה, כי דין עקירה והנחה הוא רק תנאי הכרחי בהוצאה בשבת, אבל לא בשביתה. אבל נראה שלדעת הרמב"ם לא יעבור משום שביתת בהמתו אלא רק כשהנהיגה בקול וגרם לה שתשא את משאו ע"י הנהגה, אבל כשהיא הולכת מעצמה לא יעבור בעשה של „למען ינוח וכו'". ולדעת הרמב"ם אין להקשות על מסקנת הגמ' את קושיית הר"ן, דמשום שביתת בהמתו אינו עובר כל עוד שהלכה הבהמה מעצמה ולא הנהיגה אפילו בקול. וכן משמע גם מדברי הרמב"ם בפ"י המשניות, ח"ל: „ומה שהטרחנו אותו להניחו על הבהמה כשהיא מתהלכת כדי שלא יהא מחמר, ומחמר הוא הנותן דבר על הבהמה ומנהיג אותה או ינהיג אותה במשאה וימחר אותה ללכת וכו'". הרי מפורש כתב הרמב"ם בזה שהוא מניח על הבהמה כשהיא מתהלכת כדי שלא יהא מחמר, והדגיש עוד שמחמר הוא כשמנהיג אותה וממחר אותה ללכת. ונמצא שנוסף על טעם הגמ' שהוא מניח כשהיא מתהלכת כדי שלא תהיה עקירה והנחה, הוסיף עוד הרמב"ם נופך משלו, שמחמר הוא כשמנהיג אותה. כלומר אינו עובר משום שביתת בהמתו כשהוא מניח כשהיא מתהלכת ואינו מנהיגה. והדברים בפ"י המשניות עולים בקנה אחד עם דברי הרמב"ם ב"ד החזקה", וכמו שבארנו.

ועוד יש להוכיח שמצות עשה של שביתת בהמה נאמרה בתורה יחד עם הלאו בפסוק: „לא תעשה כל מלאכה וכו' ושוורך וחמורך וכו' למען ינוח עבדך ואמתך כמורך" (דברים ה', יד), שכן חכמי התלמוד תפסו את הדברים „למען ינוח עבדך ואמתך כמורך" שהם מוסבים גם לשור לחמור ולבהמה בכלל. כי בגמ' ב"ק, נ"ד ע"ב, שנינו: „תנן אדם מותר עם כולן לחרוש ולמשוך א"ר פפא וכו' אמר קרא, למען ינוח עבדך ואמתך כמורך" להנחה הקשתיו ולא לדבר אחר. ופי' רש"י: „להנחה הקשתיו, עבד ואמה לבהמה אבל לא לענין איסור אחר", כלומר סוף הפסוק „למען ינוח" מוסב גם לראשיתו שם נאמר „שוורך וחמורך וכל בהמתך" שכולם במצות שביתה, ובוהו הוקשו עבד ואמה לבהמה; אבל לא לענין איסור אחר, וז"א אדם החורש עם בהמה אין לרדוף אותם כשני מינים שיעבור באיסור כלאים, הואיל והבהמה משועבדת לאדם ונשמעת לו לא הושוו זה לזה שיהיו נחשבים כשני מיני בעלי חיים לעבור באיסור כלאים. אכן מהדברים „להנחה הקשתיו" יוצא ברור שמצות שביתה לבהמה נכללת בסוף הפסוק „למען ינוח עבדך ואמתך כמורך". 195 צריך למחוק את המלה „כתיב". ועי' יבמות, קי"ד ע"א: „לא תאכלום כי

שקץ הם (ויקרא י"א, מ"ב), לא תאכילום להזהיר הגדולים על הקטנים". אמנם מקור הדרשה הוא בספרא שם, ח"ל: „לא תאכלום, יכול יאכילום לקטנים? ת"ל לא יאכל". ולפי' הדין שלא להאכיל לקטנים מאכלות אסורות הוא מדאורייתא. והדרשה בברייתא בגמ' יבמות „לא תאכלום – לא תאכילום" היא כנראה מאוחרת. ואולי כיוונו בדרשת הגמ' להוסיף על דרשת הספרא ולאמר, שהואיל ואנו דורשים דין זה מ, לא יאכל" (בנפעל עפ"י המסורה), יש גם לקרא את הדברים „לא תאכילום" בהפעיל ולפרשם כאזהרה לבלי להאכיל לקטנים. ועוד אף זו: מדרשת הספרא על הפסוק „לא יאכל" בנפעל יוצא רק שאסור להאכיל לקטנים, אבל אין בזה משום איסור לאו. ומכיון שנאמרו הדברים בצורת נפעל, אסור אפי' לגרום לקטן שיאכל מאכלות אסורות, ולא דוקא להאכילו. אולם



פרק עשרים [ה'י]. מי שהיה מחשיך בדרך ואין עמו נכרי שיתן לו כיסו ויש עמו בהמה שלו מניח כיסו עליה כשהיא מהלכת וכשתרצה לעמוד נוטלו מעליה כדי שלא תעמוד והוא עליה עד שלא תהיה שם לא עקירה ולא הנחה. ואסור לו להנהיגה אפילו בקול בעוד שהכיס עליה כדי שלא יהיה מחמר.

הגהה: תימה הוא זה כיון דנוטלו הימנה כשתרצה לעמוד אמאי אסור והא לא מקרי מחמר אם לא יהיה בגופו חייב חטאת, ושמא אתא לאשמעינן דמקרי מחמר אפילו הנהיגה בקול.<sup>194</sup>

<sup>194</sup> דברי הרמ"ך אינם מחוורים, כי אפילו אם נאמר שאסור משום מחמר אפילו אם הנהיגה בקול, מ"מ הקושיא במקומה עומדת, כיון שמניח עליה כשהיא מהלכת ונוטלו הימנה כשתרצה לעמוד, הרי אין כאן לא עקירה ולא הנחה. וכיון שלא יהיה בגופו חייב חטאת מותר בבהמה לכתחילה, כדברי הגמ' שבת, קנ"ג ע"ב. שכן מדברי הפסוק "לא תעשה כל מלאכה אתה וכו' וכל בהמתך" יוצא שאינו חייב במחמר אלא במלאכה העשויה ע"י שניהם, האדם והבהמה, והואיל והניח עליה כשהיא מהלכת ונוטלו הימנה כשתרצה לעמוד אין זו מלאכה של הוצאה בשבת כיון שאין כאן לא עקירה ולא הנחה. ואמנם הרשב"א השיג על הרמב"ם וכתב שאין דינו כמחמר כשהוא מנהיג בקול כיון שאינו מניח עליה עד שתהא מהלכת. ועי' במגיד משנה.

ונראה שדעת הרמב"ם בזה היא שיש במחמר שני דינים, לאו ועשה, ושניהם מקורם בתורה. מקור הלאו הוא בפסוק: "לא תעשה כל מלאכה אתה וכו' וכל בהמתך", שחכמי התלמוד פרשוהו במובן שהאדם והבהמה עושים מלאכה ביחד, כלומר במחמר. ומקור העשה הוא בפסוק: "למען ינוח שורך וחמורך" (שמות כ"ג, י"ב). והנה בגמ' שבת שם שנינו: "אמר מר אין עמו נכרי מניחו על החמור, והלא מחמר ורחמנא אמר לא תעשה כל מלאכה? אמר רב אדא בר אבהו מניחו עליה כשהיא מהלכת. והא אי אפשר דלא קיימא וכו' ואיכא עקירה והנחה? כשהיא מהלכת מניחו עליה, כשהיא עומדת נוטלו הימנה וכו', כל שחברו פטור אבל אסור, בחמורו מותר לכתחילה". שאלת הגמ' "והלא מחמר" כוונתה שיהא חייב בלאו של עושה מלאכה בשבת יחד עם בהמתו. ושנו כיון שאינו עוקר ואינו מניח הוא מותר לכתחילה בחמורו. דין זה שאינו חייב בהוצאה בשבת באין עקירה והנחה הוא רק שאינו עובר על הלאו של "לא תעשה כל מלאכה", כי מלאכת הוצאה בשבת היא רק כשיש עמה עקירה והנחה. אבל ביחס לעשה של "למען ינוח שורך וחמורך" אפילו אם אין כאן עקירה והנחה, אם גרס לבהמה שתשא את משאו בשבת יעבור במצות עשה של "למען ינוח וכו'". כי עקירה והנחה הן רק תנאי הכרחי למלאכת הוצאה בשבת, אבל בעשה של מנוחת בהמתו בשבת יעבור אפילו אם לא עקר ולא הניח כל עוד שגרס לבהמתו שלא תשבות בשבת. ולזה כוון הרמב"ם בכתבו: "ואסור לא להנהיגה אפילו בקול בעוד שהכיס עליה כדי שלא יהיה מחמר", כלומר אם גרס לבהמה לשאת את משאו בשבת אפילו בקול יעבור בעשה של "למען ינוח וכו'".

ואולם הר"ן כתב וז"ל: "הלא מחמר, מנהיג חמור טעון הוי מחמר וכו' והא דלא אקשינן ליה דקא עבר משום שביתת בהמתו, משום דהוה מתרץ ליה דילמא בבהמה שאינה שלו וכו'. ואמסקנא לא קשיא מיד, דכיון דלא עביד עקירה והנחה אפילו משום שביתת בהמתו ליכא דבגופו נמי פטור וכו'". ודברי הר"ן קשים הם, כי לפי דעתו יוצא שדין המשנה, שאם אין עמו נכרי מניח את כיסו על החמור, הוא רק בחמור שאינו שלו,

[ה"ח]. כל שאסרו חכמים לצאת בו לר"ה אסור לחצר שאינה מעורבת חוץ מכבול ופאה של שער דמותר לצאת בהם לחצר כדי שלא תתגה על בעלה.<sup>193</sup>

אם יצא אבל אסור לכתחילה לצאת בה. עי' רש"י שבת, ס"ב ע"א, לרברי עולא וחיילופיהן באיש". ועי' ברא"ש שהוכיח כמו כן מרברי רש"י, שדעתו היא בטבעת, שיש עליה חותם פטור אבל אסור, וכן נראה ג"כ מרברי רש"י לגמ' דף ס"ז ע"א, ובני מלכים בוגין".

ומה שכתב הרמ"ך, והירושלמי צריך לעיין לרבריו, כוונתו לרברי הירושלמי שבת, פ"ה ה"א, והאיש על ידי שאינו שחוף מותר, כלומר באשה אסור לצאת אפי' בטבעת שאין עליה חותם שהיא תכשיט לה משום ששחצניות הן ויש לחשוש שמא תוציאה בר"ה להראות לחברותיה, אבל באיש שאינו שחוף מותר אפי' לכתחילה בטבעת שהיא תכשיט לו. אמנם מהמשך דברי הירושלמי נראה שאסור לאיש לצאת בטבעת של תכשיט. והרברים, והאיש ע"י שאינו שחוף מותר נאמרו בתור שאלה, כלומר האם הוא מותר לצאת לכתחילה. ואמרו שם: נשמעיה מן הרא רבן גמליאל ברבי ירד לטייל בתוך חצרו בשבת ומפתח של זהב בידו וגערו בו חבריו משם תכשיט, הרא אמרת העשוי לשם תכשיט אסור, הרא אמרת העשוי לכך ולכך, הרא אמרת אחד האיש ואחד האשה, הרא אמרת אפילו במקום שאמרו לא תצא ואם יצאת אינה חייבת חטאת, אסורה לצאת בו בחצר". הרי מעובדה זו שנערו חבריו בר"ג הוכיחו שאסור גם לאיש לצאת בחצר שמא יוציא לר"ה. ומכאן יש להוכיח כרש"י נגד דעת הרמב"ם.

ומה שכתב הרמ"ך, והרב ר' זרחיה תירץ הכל כוונתו לרברי הר"ה שכתב לדחות את הראיה מן הירושלמי, שאפי' במקום שהאיש פטור אם יצא, אסור לכתחילה לצאת בטבעת של תכשיט. וז"ל הר"ה: "ואע"פ שנראה מן הירושלמי הזה שהוא אסור אפי' באיש, יש לומר מתוך שהוא עשוי לכך ולכך בין לאיש בין לאשה אסור לצאת בו בדרך קשטו, אחד האיש ואחד האשה אפי' לחצר וכ"ש לרשות הרבים, אבל דבר שהוא מיוחד לתכשיט של איש מותר לצאת בו אפי' לרה"ר ולא חיישינן דלמא שליף ומחוי, וכן בטבעת שיש עליה חותם וכו'". הרי מפורש כתב בזה הר"ה לקיים את דעת הרמב"ם ולדחות את הראיה מן הירושלמי. ועי' המשך דברי הר"ה שרן בזה בארוכה. ומרבריו נראה שהוא לא פירש את דעת הר"ה בניגוד לשיטת הרמב"ם ולא כמו שכתב הרמ"ך, שרב אלפאסי לא כתב כן". ועיי"ש, ועי' גם ברא"ש לסוגיתנו בגמ' שבת.

ועי' אוצר הגאונים לשבת בעריכת הרב"מ ליון, עמ' 57 וכו', שהביא תשובות שונות בזה. ורברי הרמב"ם, ונהגו כל העם שלא יצאו כלל נראה שמקורם הוא בתשובת הגאונים שם, עמ' 59, וז"ל: ועכשיו מנהג של ישיבה בשבת אין יוצאין אנשים בטבעת שאין עליה חותם ואפי' בטבעת שיש עליה חותם וכו'.

<sup>193</sup> אלה הם דברי הרמב"ם, והרמ"ך לא הוסיף כלום לרבריו; אמנם מתוך שהביא את דברי הרמב"ם ולא השיג עליהם נראה שהוא מסכים לשיטת הרמב"ם שרק בחצר שאינה מעורבת אסור. כי יש סוברים שאסור לצאת אפילו בחצר מעורבת. וכ"ה דעת הרשב"א. יתר על כן, הרמב"ן והרשב"א הסכימו לאסור אפי' בבית דרך מלבוש ותכשיט שמא ישכח ויצא. ועי' במגיד משנה. אמנם בתוס', שבת, ס"ד ע"ב, ד"ה רבי ענני, כתוב: ורבי ענני דמתיר בחצר היינו אפי' בחצר שאינה מעורבת דבחצר מעורבת ליכא שום חידוש וכו'. ושיטתם כשיטת הרמב"ם. ונראה שכן היא גם דעת הרמ"ך דבחצר מעורבת מותר, וכל שכן דבבית מותר.

[הכ"ח]. המוציא קופת הרוכלין אעפ"י שיש בה מינין הרבה ואפילו הוציאו בתוך כפו אינו חייב אלא אחת. שם הוצאה אחת היא.

הגה"ה: היה לו לפרש במזיד ואתרו ביה מכל מין ומין, <sup>188</sup> או בשוגג ונודע לו על זה וחזר ונודע לו על זה, <sup>189</sup> דאי כפשטיה דמתניתין מאי אתא לאשמעינן השתא הוציא וחזר והוציא אינו חייב אלא אחת, כ"ש כשהוציא בבת אחת מינין הרבה. ובירושלמי מקשי זה ודחק עצמו לתרוצה, <sup>190</sup> וצ"ע.

פרק תשעה עשר [ה"ד]. לא תצא אשה בטבעת שאין עליה חותם אעפ"י שהוא מתכשיטיה, אבל מותר לאיש לצאת בו, <sup>191</sup> ונהגו כל העם שלא יצאו כלל.

הגה"ה: אעפ"י שרב אלפאסי לא כתב כן, נראין דברי זה הרב, והירושלמי צריך לעיין לדבריו, והרב ר' זרחיה תירץ הכל. <sup>192</sup>

הרברים הוא בפסחים פ"ב משנה א': «ואלו עוברין בפסח וכו' וזמן של צבעים». ובכת"י מינכן «זומא» במקום «זומין». ומקור ההלכה של הרמב"ם בזה הוא בתוספתא שבת פ"ח: «המוצא מורסן לאכילה כגורגרת, לבהמה כמלא פי הגדי», והוא כלשון הרמב"ם. ועי' במ"מ.

<sup>188</sup> הוקשה לו מה שהקשו בתוס' שבת, צ' א', ד"ה המוציא: תימה דמאי קמ"ל פשיטה דאפי' בהוציא וחזר והוציא אינו חייב אלא אחת כ"ש בבת אחת וכו'.

<sup>189</sup> כן תירצו בתוס' שם בשם הר"ח.

<sup>190</sup> ח"ל הירושלמי שבת, פ"ט ה"ז: וקשיא אילו הוציא והוציא בהעלם אחת כלום הוא חייב אלא אחת? למי נצרכה לר' אליעזר שלא תאמר מינים הרבה ייעשו כהעלמות הרבה ויהא חייב על כל א' וא', לפום כן צריך מימר אינו חייב אלא א'. ועי' סוף דברי התוס' שבת שם.

<sup>191</sup> נראה שטעות נפלה בדברי הרמב"ם שהביא, ובמקום «אבל מותר לאיש לצאת בו, צ"ל: «אבל מותר לאיש לצאת בטבעת שיש עליה חותם». כי א"א לאמר שהרמב"ם מתיר לאיש לצאת בטבעת שאין עליה חותם, שהרי מפורש נאמר בהל' ג': «טבעת שיש עליה חותם מתכשיטי האיש הוא ואינה מתכשיטי האשה ושאין עליה חותם מתכשיטי אשה ואינה מתכשיטי האיש, לפיכך אשה וכו' ואיש שיצא בטבעת שאין עליה חותם חייבין». והלכה זו מקורה בגמ' שבת, ס"ב ע"א: אמר עולא וחילופיהן באיש, כלומר דטבעת שיש עליה חותם אם יצא פטור ואם אין עליה חותם חייב חטאת.

ואפשר גם לקיים את הגירסא שלפנינו ולאמר שהרמב"ם מכוון בדברים «אבל מותר לאיש לצאת בו» כלומר דטבעת שיש עליה חותם שהיא תכשיט לו, כשם שטבעת שאין עליה חותם היא תכשיט לאשה. ולפי"ז עלינו להבין את דבריו שכוונתו בסוף המאמר לענין רומה לראשית המאמר, כלומר לטבעת של תכשיט, ובאשה טבעת שאין עליה חותם היא תכשיט לה, ובאיש להיפך.

<sup>192</sup> כוונת הערתו היא לדברי הרמב"ם המבחין בין אשה לאיש, כי באשה אפי' בטבעת שאין עליה חותם, שהיא תכשיט לה, שאם יצאה בה פטורה, מ"מ אסורה לצאת בה משום גורה שמא תוציאה בר"ה להראות לחברותיה, ובאיש בטבעת שיש עליה חותם, שהיא תכשיט לו, הוא מותר לצאת בה אפי' לכתחילה. ומדברי רש"י משמע שהוא פטור

ועוד כיון דפתוח לבקעה שהיא כרמלית בג' מחיצות הוי רה"י בלא פי תקרה<sup>179</sup> כדאמרינן לזרוק משתים הוא דמחייב לטלטל עד דאיכא ג',<sup>180</sup> כ"ש הכא דיש לו ג' מחיצות דחייב הזורק לתוכו בלא פי תקרה, וצ"ע.

**פרק שמנה עשר. [ה"ב].** טל כדי לשוף את הקלורית וקלור כדי לשוף את המים.<sup>181</sup>

הגהה: כל מה שכתב כאן לא הבנתי ואיננו הולך על דרך התלמוד. ובגמרא שלנו אמרינן מים כדי לשוף את הקלור,<sup>182</sup> והוא כתב כדי לרחוץ פני מדוכה, וכתב קילור כדי לשוף את המים, והיה לו לפרש כדי אחיזה או כדי אחיזה ושיפה,<sup>183</sup> ולא ידעתי מהו, ולמה הפליג בין טל למים ומתניתין סתמא כתיב בכל מים, וצ"ע. בירושלמי מפורש.<sup>184</sup>

**[ה"ה].** המוציא תבלין כדי לבשל<sup>185</sup> ביצה ומצטרפין זה עם זה.

הגהה: היה לו לכתוב כדי לתבל כגרוגרת מביצה קלה, דכל שיעורי שבת כגרוגרת.<sup>186</sup>

**[ה"ו].** המוציא מורסן אם לאכילה כגרוגרת, לבהמה כמלא פי גדי.

הגהה: לא ידעתי מאין הוציא זה. אחרי כן מצאתי בתוספתא זומא של צבעין וכו'.<sup>187</sup>

הרמ"ך משום ביאור להשנה זו. ובמגדל עז כתב ליישב את דעת הרמב"ם שיש להבחין בין לחי דהוי סתימה במקצת ובין קורה ותקרה דלאו סתימה היא כלל, וע"כ לחי הוא משום מחיצה, וקורה אינה אלא משום היכר, כדברי הגמ' עירובין, י"ב ב'. ונראה דקורה, שהיא משום היכר, דינה כפיקציה משפטית, כלומר יש לחשוב את החצר ככאילו"ה הוא סתום כדי להתיר לטלטל בתוכה, אבל לא לעשותו רה"י ממש לחייב את הזורק מרה"ר לתוכה. משא"כ בלחי שהוא משום מחיצה, וע"כ דין החצר הוא כסתום ממש ורה"י היא.<sup>179</sup> מכאן תשובה למגדל עז שכתב בשם הרשב"א לחלק בין מבוית הפתוח לכרמלית ובין מבוית הפתוח לרה"ר שפטור, דא"כ באכסדרה דפתוחה לבקעה שהיא כרמלית צריך שיהא דינו כרה"י בג' מחיצות. ולדעת הרמב"ם עי' במ"מ לפ' י"ז ה"א, שכתב לבאור שיטתו, דבג' מחיצות מותר לטלטל מן התורה כדין כרמלית אבל אינו כרה"י גמורה. עירובין, י"א ב'.

<sup>181</sup> ברפוסים הגירסא היא: כדי לשוף במים. וכ"ה בגמ' שבת, ע"ז ב'.

<sup>182</sup> משנה שבת, ע"ו ב'. ועי' במ"מ.

<sup>183</sup> בעיה היא בגמ' שם, ע"ז ב'.

<sup>184</sup> וז"ל הירושלמי שבת, פ"ח ה"א: מים כדי לשוף את הקילורית, א"ר לעזר הרא

דאז אמר באילין מא דטלא, וברם באילין דידן כדי להדיח פני מדוכה.

<sup>185</sup> צ"ל: לחבל. ומקור ההלכה הוא במשנה שבת, פ"ט ב'.

<sup>186</sup> עי' שבת, פ' ב', דאמרו בגמ': ומ"ש כל שיעורי שבת כגרוגרות והכא כביצה,

א"ל הכי אמר ר"נ כגרוגרות מביצה קלה.

<sup>187</sup> איני יודע את כוונת הדברים, זומא של צבעין בקשר עם פסקו של הרמב"ם. ומקור

לה דעביד דקה, אבל בחצאין לא מועיל דקה, דכיון דלכולם יש להם רשות באותו דרך אסרי אהדדי. ולא ידעתי על מה סמכו חכמי מרשילא וחכמי בדרש, שמערבין עירם חצאין ואינם שוכרים רשותם מן הגוים שעוברים באותו דרך תדיר, והוי כמו שתי חצרות זו לפנים מזו, דאסרי בני פנימית לבני חצונה, אעפ"י שיש ביניהם חומה גבוה דלתים ובריח, כיון שעוברים דרך עליה על כרחם אסרי עליה, הכי נמי בני חצי הדרך שעוברים על חצי הדרך האחר תדיר ואין להם דרך לנטות אסרי עליהו, וצ"ע. מ"מ צריך לעיין רבי יהודה דמתיר מי שיש לו שני בתים בשני צידי ר"ה בלחי מכאן ובלחי מכאן,<sup>175</sup> וצ"ע.

[הי"ח]. נפרץ המבוי במלואו לחצר ונפרצה חצר כנגדו לר"ה הרי אסור מפני שהוא מבוי מפולש והחצר מותרת.

תמה הוא איך סתם דבריו והיה לו לאמר דערבו אסור דהמבוי והחצר הכל אחד והוה ליה מבוי המפולש. ואם מפרש ליה כפר"ש היה לו לומר דבשלא ערבו אסור,<sup>175</sup> וצ"ע.

[הי"ט]. מבוי שיש לו שבילים מצד זה ומצד זה שנמצאו מפולשין לר"ה אעפ"י שאין מכוונים זה כנגד זה הרי כל אחד מהן מבוי מפולש, וכיצד מכשירין אותו עושה צורת הפתח לכל אחד מהשבילים שבצד האחד וכן לפתח הגדול ועושה לכל השבילין שבצד שני לחי או קורה.

הגה: נראה מדבריו שמבוי העשוי כמין כ' אין תורתו כמפולש ומבוי עקום דאמר תורתו כמפולש דוקא דעשוי כמין ב', ותוס' וכל רבותי לא פרשו כן, שהם פרשו מבוי העשוי כנדל מצד אחד<sup>176</sup> שהעקמימות כמין כ', ואעפ"כ צריך צורת פתח לכולהו. ונראין דבריהם דמבוי עקום סתמא קתני. וכן עשו מעשה חכמי העיר הזאת למבוי העשוי כמין כ' הצריכו צורת פתח, וצ"ע.

[הל"ה]. אכסדרה בבקעה מותר לטלטל בכולה ואעפ"י שהיא ג' מחיצות ותקרה, שאנו רואים כאלו פי תקרה יורד וסותם רוח רביעית, והזורק מר"ה לתוכו פטור.<sup>177</sup>

הגה: לא ידעתי טעמא מאי כיון דקיי"ל פי תקרה יורד וסותם הוי ליה רה"י גמורה והזורק לתוכו חייב, ולא דמי למבוי שהכשרו בקורה דקורה משום היתר.<sup>178</sup>

<sup>175</sup> עירובין, כ"ג א'.

<sup>176</sup> וכן העיר גם המ"מ. ועי' בכ"מ. ובעירובין דף ח' ע"א לרברי הגמ': מבוי שנפרץ במלואו לחצר וכו', כתב רש"י: ואוקמא כשלא עירבו וכו'. ולרברי רש"י אלו כוון הרמ"ד.

<sup>177</sup> עירובין, ח' ב'. ועיי"ש תוס'.

<sup>178</sup> בדפוסים הגירסא בדברי הרמב"ם היא: והזורק מרה"ד לתוכה פטור כזורק למבוי סתם שיש לו קורה. וגירסא זו הביא בעל מגדל עוז עפ"י ספר מוגה בחתימת ידי הרמב"ם ז"ל.

<sup>178</sup> צ"ל: היכר". והראב"ד השיג על הרמב"ם וכתב: כל זה שיבוש. ויש בדברי



לחי או קורה ברוח רביעית מקרי רה"י, ולקמן כתב<sup>167</sup> דמבוי שהכשרו בקורה הזורק לתוכו פטור ולא מקרי רה"י; וצ"ע גדול לישב דבריו.<sup>168</sup>

[ה"ט]. מבוי שהכשרו בקורה אעפ"י שמותר לטלטל בכולו כרה"י הזורק מר"ה לתוכו פטור או מתוכו לר"ה שהקורה משום היכר היא עשויה אבל אם הכשרו בלחי [חייב]<sup>169</sup> לחי היא כמחיצה.

הגהה: זה תימה דבגמרא מסיק בהדיא אליבא דב"ה דלזרוק משתים הוא דמחייב<sup>170</sup> והוא אמר דאפי' בג' הזורק לתוכו פטור כיון דהכשרו בקורה, ואי מוקים לה בשפתוחה לר"ה, דחשבינן ליה ככרמלית אפילו יש לה שלשה מחיצות, כמו שכתב לעיל בפרק י"ד דאפילו בג' מחיצות קרי ליה כרמלית, א"כ יהא אסור לטלטל דלא באו חכמים להקל כשתקנו עירובין כי אם להחמיר כדאמרין<sup>171</sup> וכי כבר עושה אותו רה"י, וצ"ע. ועל כרחין משינן חילוק בין פתוח לר"ה לפתוח לכרמלית דבפרק כל גנות אמרינן בהצר שנפרצה לר"ה דלרבנן המטלטל מתוכה לר"ה פטור,<sup>172</sup> נמצא דאע"ג דיש לו ג' מחיצות מיקרי כרמלית, ובפ"ק אמרינן דלזרוק משתים הוא דמחייב, אלמא דרה"י הוא בשתי מחיצות. וצ"ע בזה.

[ה"י]. שני כותלים בר"ה והעם עוברין ביניהם וכו' עושה דלתות מכאן ומכאן ואח"כ יעשה ביניהם רה"י ואינו צריך לנעול הדלתות.

הגהה: רבינו אפרים כתב דלא סגי ליה בדלתות,<sup>173</sup> ונראין דבריו כמו שפרשנו, ואפילו רב אלפאסי לא התיר להכשיר כל ר"ה בדלתות כי אם כשמערב כל העיר דלא אסרי אהדדי, אבל חצי העיר אסור דאסרי אהדדי כדאמרין בפרק בכל מערבין מאי שנא חצי העיר דלא אסרי אהדדי מבוי גמי אסרי אהדדי,<sup>174</sup> ומוקי

<sup>167</sup> פ"ז, ה"ט, ועיי"ש השגת הראב"ד.

<sup>168</sup> עי' במ"מ שהביא הקושיא הראשונה של הרמ"ך בשם "רבנים", וסוף דברי הרמ"ך הביא כהגהה סתם, והמ"מ יפה באר את דעת הרמב"ם דבשלש מחיצות דינו ככרמלית. <sup>169</sup> הוספתי את המלה "חייב" עפ"י נוסח הרפוסים.

<sup>170</sup> עירובין, י"א ב': קא סברי ב"ה שלש מחיצות דאורייתא, לא לזרוק משתים הוא דמחייב וכו'.

<sup>171</sup> עי' בהשגת הראב"ד שהשיג על הרמב"ם כמ"כ.

<sup>172</sup> עירובין, צ"ד א'. ועי' במ"מ שבאר דעת הרמב"ם שהוא סובר שבשלש מחיצות הוא ככרמלית מן התורה ולא רה"י.

<sup>173</sup> כלומר וצריך לנעול הדלתות. ועי' במ"מ שפרש את דעת הרמב"ם, דלא בעינן ננעלות בלילה, בניגוד לדעת הרי"ף הסובר שצריך לנעול הדלתות בלילה. ובאור שמח להג' ר' מאיר שמחה, ח"א עמ' 86, מפרש שדין זה תלוי בפירושי רש"י ותוס' בעירובין, ו' ב', לדברי הגמ': וכי תימא בכך הוא דלא מערבא הא בדלתות מערבא וכו', ועיי"ש. <sup>174</sup> ט"ס נפלה כאן, כי אין הרברים בפ' בכל מערבין אלא בפ' כיצר מעברין,

עירובין, נ"ט ב', וז"ל הגמ' שם: מ"ש דלחצאין דלא דאסרי אהדדי מבוי מבוי גמי אסרי אהדדי וכו'. ועיי"ש רש"י ותוס'.

שכתב דאם בנה עמוד בצד הכותל דפחות מג' לא הוי מיעוט, לא הבנתי, דהא אפילו טח פניה בטיט ואינו יכול לעמוד בפניו אמרינן דהוי מיעוט,<sup>163</sup> בנה עמוד בצד הכותל פחות מג' לא כ"ש דהוי מיעוט, ור"ש פירש הכל על דרך הנכון, ודברי זה הרב לא הבנתי, וצ"ע.

[הט"ז]. כל מחיצה שיש בה פרוץ מרובה על העומד [אינה מחיצה] ואם היא פרוץ כעומד הרי זו מותרת, ובלבד שלא תהא בהם פירצה שהיא יתרה מעשר אבל עשר אמות הרי הוא כפתח, ואם היה לפירצה זו צורת פתח אעפ"י שיש בה יתר מ' אמות אינה מפסדת המחיצה.

הגה"ה: לא נהיר זה דהא פסק איהו גופיה כסתם מתניתין דהרחב מ' אמות אינו צריך למעט, וכיון שכן האי ברייתא דדפנות הללו שרבה בהן פתחים וחלונות מוקמינן לה בפתחי שימאי,<sup>164</sup> אבל בפתחים טובים אפי' יהיו פרוץ מרובה על העומד מותר, דכל צורת הפתח כעומד חשבי' ליה, וצ"ע.

[הי"ט]. וצורת פתח שאמרו צריכה שתהא בריאה לקבל דלת אפילו דלת של קש.

הגה"ה: כיון שפוסק זה היה לו לפסוק דבעינן היכר ציר, אבל לפירושנו לא בעינן לא בריאה ולא היכר ציר, דהא רב אשי לא תני כלום בצורת פתח כי אם קנה מכאן וקנה מכאן וקנה על גביהם,<sup>165</sup> וסתם קנה אינו בריאה לקבל דלת, ולא הזכיר רב אשי ולא הבריתא היכר ציר, וכן המנהג בכל הארצות שהצורת פתח אינו בריא וחזק ואין לו היכר ציר, וצ"ע.

פרק שבעה עשר [ה"ב]. היאך מתירין מבוי הסתום עושה לו ברוח רביעית לחי או קורה ויעשה רה"י שדין תורה בשלש מחיצות מותר לטלטל, מדברי סופרים הוא הרוח הרביעית, ומבוי המפולש עושה לו צורת פתח מכאן ולחי או קורה מכאן, ומבוי עקום תורתו כמפולש.

הגה"ה: בפרק י"ד<sup>166</sup> כתב דלא מקרי רה"י כי אם בג' מחיצות ולחי ברוח רביעית ובכאן כתב דבג' מחיצות מותר לטלטל מן התורה, וכתב נמי דאם עושה

<sup>163</sup> קושא זו הביא המ"מ בזה"ל: ויש בכאן שאלה וכו'.

<sup>164</sup> עירובין, י"א א': כי תניא ההיא בפתחי שימאי וכו'. וקושינו על הרמב"ם היא שכתב, והוא שלא יהא הפרוץ מרובה על העומד, כלו' ואפי' בצורת הפתח. ועי' במ"מ ובלח"מ שרנו בזה.

<sup>165</sup> כוונתו להא דאמרו בעירובין, י"א ב', אשכחניהו רב אחא בריה דרב אויא לתלמידי דרב אשי, אמר להו אמר מר מידי בצורת הפתח? אמרו ליה לא אמר ולא כלום. ומדלא אמר רב אשי כלום בזה משמע שאינו מצריך לא בריאה ולא היכר ציר. והרמב"ם פסק בזה כהר"ף דמצריך בריאה ולא היכר ציר. ועי' בהנהגות מיימוניות ובשלטי הגבורים.

<sup>166</sup> הלכה א'. ועי' לעיל, הערה 153.

פרק חמשה עשר [ה"כ]. לא ימלא מן הספינה<sup>155</sup> אא"כ עשה מקום ד' על ד' יוצא מן הספינה על הים וכו' עד היכר.

הגהה: תמיהא לן האיך סתם דבריו, ובמסכת עירובין<sup>156</sup> מפרש בהדיא גזוזטרא שהיא למעלה מן המים אין ממלאין ממנה בשבת אלא אם כן עשו לה מחיצה עשרה. ומשום האי קושיא מפרש רבינו יעקב<sup>157</sup> האי מימרא דרב הונא דעושה מקום ד' מן הנקב שבאמצע הגזוזטרא קאמר אבל הגזוזטרא רחבה ד' אמות שהם כ"ד טפחים וישאר מכל צד עשרה טפחים (ואמרינן . . . וגוד),<sup>158</sup> וצ"ע.

פרק ששה עשר [ה"ז]. מקום שהוקף וכו' עד שפי תקרה יורד וסותם.

הגהה: היה לו לפרש והוא דעביד כי ארזלא, דאי עביד כאכסדרא אליבא דדברי הכל מותר, ובעביד כי ארזלא הלכה כדברי המיקל, וצ"ע.<sup>159</sup> ארזלא הוא גג משופע ואכסדרא כשאינו משופע, דכשהתקרה מיושרת ואינה מושפעת אז אמרינן פי תקרה יורד וסותם ולא כשהיא משופעת.

(שם) נפרץ במילואו לחצר ונפרצה חצר כנגדו חצר מותרת כשהיתה והקרקף אסור שאין אויר החצר מתירו.

הגהה: לא ידעתי לישב דבריו לפי הגירסא הכתובה בספרינו דקא מקשינן בגמרא וכי אויר מותר אסור,<sup>160</sup> ונפרצה חצר כנגדו אין כתוב בספרינו ור"ש לא גרס ליה,<sup>161</sup> ואם כדבריו כן הוא דבקרקף יותר מבית סאתים, מאי מקשי בגמרא והא איכא מקום מחיצות וכו', וצ"ע.

[ה"ח]. בנה בו עמוד בצד<sup>161</sup> הכותל גבוה עשרה ורחב שלשה או יתר הרי זה מיעוט, פחות מג' אינו מיעוט.

הגהה: כל מה שכתב כאן לא הלך בשטת הגרסא הכתובה בספרינו, דמועיל ואינו מועיל כתוב בספרינו,<sup>162</sup> וכן ראוי לפרש, ופירושו וגרסתו לא הבנתי. גם מה

<sup>155</sup> צ"ל: מים מן הים והוא בתוך הספינה וכו'.

<sup>156</sup> פ"ז ב'. ועיי' תוס' שבת, ק' ב', ד"ה עושה, שהקשו כמ"כ.

<sup>157</sup> עיי' תוס' שבת, שם, שהביאו פירוש זה בשם הר"ת והר"י.

<sup>158</sup> כנראה ששניאה נפלה כאן, וע"כ שמתי את הדברים בסוגרים.

<sup>159</sup> עירובין, כ"ה ב': אי רעבידא כי אכסדרה הכי נמי, הב"ע רעברה כי אורזילא.

והרמ"ך פי' ארזלא כרש"י שם. ועיי' מ"מ ובתוס' שם ד"ה הב"ע.

<sup>160</sup> הלשון כאן משובשת קצת, כי ז"ל הגמ' עירובין שם: וכי אויר המותר לו אוסרו;

ובכתי' מינכן: וכי אויר המתיר אוסר. ובכ"מ גרס בדבריו: וכי אויר המותר אוסר. וזה

נכון. ועיי' בדק"ס.

<sup>161</sup> עיי' רש"י שם שכתב: ונפרצה חצר כנגדו לא גרס בכולה שמעתתא. והרמב"ם

גרס זה בגמ'. והראב"ד ג"כ השיג על הרמב"ם.

<sup>161</sup> ובדפוסים: גדר.

<sup>162</sup> כנראה שהרמ"ך גרס בגמ' עירובין, כ"ה א', "מועיל ואינו מועיל" בכל.

ובדפוסים שלנו הגירסא היא, "הוי מיעוט ולא הוי מיעוט" בבנה עמוד גבוה עשרה וכו'.

ועיי"ש רש"י, שכמותו פי' הרמ"ך את הסוגיא. והמ"מ הביא כגירסת הרמ"ך.

ביד בין בכלי פטור ואביי אמר בין ביד בין בכלי חייב. והכי פירשו רבותי ומביאים סיוע מכל מה שכתבתי לעיל. והר' ר' זרחיה הלך בשטת הר' ר' משה, וצ"ע.

[ה"ט]. וכן מי שהיתה חבילתו על כתיפו רץ בה אפילו כל היום כולה<sup>149</sup> אבל אם היה הולך מעט מעט הרי זה כעוקר ומניח ואסור.

הגה: מדרבנן אבל מן התורה אינו חייב עד שיניח לגמרי, דהא אפילו עומד לפוש חשבינן כמהלך,<sup>150</sup> ובגמרא מפורש בהדיא אבל קלי קלי לא מ"ט כיון דליה ליה הכירא אתי למיעבד עקירה והנחה, אבל לא אמר דהוי כעוקר ומניח.

[ה"כ]. שכח ופשט ידו והיא [מלאה פירות והוציאה מחצר זו להכניסה לחצר שבצדה וכו', ואם הוציא ידו במזיד ה"ז אסור להחזירה אצלו אלא קנסו אותו שתהא ידו תלויה] עד שתחשך.

הגה: היה לו לכתוב דוקא למטה מ', אבל למעלה מעשרה לא קנסו,<sup>151</sup> והכי אזלא סוגיא דשמעתא דאין כרמלית למעלה מ', ועוד דקאמר אידי ואידי דלמטה מ' <sup>152</sup>, וצ"ע.

פרק ארבעה עשר [ה"א]. ואי זהו רה"י וכו' [ומבואות שיש להן שלשה כתלים ולחי רביעית וכו'] עד גמורה.

הגה: תימה הוא זה דכיון דיש לו ג' מחיצות רה"י גמורה היא בלא לחי,<sup>153</sup> והכי מפורש בהדיא: אינו צריך אלא לחי הזורק לתוכו חייב,<sup>153</sup> וצ"ע.

[ה"ט]. נעץ בגובהו יתד כל שהוא [אפילו אינה גבוהה שלשה הואיל וראוי לתלות ביתד ולהשתמש בו הרי זה ממעטו ונעשה כרמלית וכו'] עד בהם.

הגה: לא הכנתי פירושו וגרסתו לא מצאתי כן בעירובין בגירסא שלנו,<sup>154</sup> ופירושו אינו מקובל אפי' לגירסא שלנו, וצ"ע.

<sup>149</sup> צ"ל "וכו", כי זה לשון הרמב"ם: אינו חייב עד שיעמוד, והוא שיהיה רץ בה, אבל אם הלך מעט מעט וכו'.

<sup>150</sup> עי' כתובות, ל"א א', שמשם יוצא ברור שעומד לפוש הנחה גמורה היא, ורק עומד לכתף הרי הוא כמהלך. וע"כ נראה שמה שכתב הרמ"ך בזה, עומד לפוש חשבינן כמהלך" לאו דוקא, אלא כוונתו היא במאיט את הליכתו כדי לפוש שחשבינן אותו כמהלך. וזה מוכח מראיתו שהביא מגמ' שבת, קנ"ג ב': אבל קלי קלי לא, ופירושו: מעט מעט כלומר בנחת (רש"י).

<sup>151</sup> ועי' במ"מ שפי' כמ"כ את דעת הרמב"ם.

<sup>152</sup> שבת, ג' ב'.

<sup>153</sup> קושייתו היא לרבני הרמב"ם: ומבואות שיש להן שלשה כתלים ולחי ברוח רביעית רה"י היא. ומשו"ז הוספתי את הרברים האלה בנוף דברי הרמב"ם שהביא, ושמתים בסוגרים מרובעות. ועי' לק' מה שכתב הרמ"ך לפ' י"ז, ה"ב.

<sup>153</sup> עירובין, י"ב ב'.

<sup>154</sup> גם הראב"ד השיג על הרמב"ם. ועי' במ"מ שרן בארוכה בזה. והרשב"א הציג גירסא שהיתה לפני הרמב"ם ובארה ברוחק.

ה ג ה: תימה הוא זה שיהא חייב אם הוציא ידו מלאה פירות למטה מג' אע"ג שלא נחה, דהא קיל"ן דידו בתר גופו גרירא, ולא גרעא ידו המדובקת בגופו מלכתא ומתנא דפטור<sup>145</sup> אע"ג דנחה בארץ. ועוד דר' אבהו דמוקים למתניתין בשלשל ידו למטה מג' וקבלה ולא מקשי ליה מידי כי אם איכפל תנא לאשמעינן כל הני,<sup>146</sup> אלמא דאפילו למטה משלשה אם לא הניחה ביד העני פטור דבעינן אפילו בתוך ג' סמוך לארץ שיעקור ויניח. ותימה גדול הוא מאין הוציא מה שכתב בכאן, וצ"ע. נראה כי הוא הוציא הא מהא דבפרק המצניע, דתירץ התם למטה מג',<sup>147</sup> ולא נהירא לן דלדעת אב"י הוא דאמר הכי<sup>148</sup> אבל לדעת רבא אפילו למטה מג' פטור דידו בתר גופו גרירא. וכן כתב הראב"ד ז"ל, וצ"ע. ויש להביא סיוע לרב ר' אברהם דהא אמר רבא תוך ג' צריך הנחה על גבי משהו, וכי אמר איפוך מכלי הוא דאמר איפוך, דקשיא אב"י אדאב"י, אבל מיד לא אמר איפוך, והכי אמר אמסקנא דרבא אמר בין

<sup>145</sup> ע"י שבת, ק"ב א', ופירושו שהרבר הנזק מרשות לרשות היה קשור בעץ או בחבל ואגרו בידו. וע"י רמב"ם הל' שבת, פ"ג הי"ד.

<sup>146</sup> שבת, ה' א'.

<sup>147</sup> שבת, צ"ב א': התם למעלה מג' הכא למטה מג'. וע"י כתובות, ל"א ב', דאמר רב אשי כגון שצירף ידו למטה משלשה וקבלו כדרבא דאמר רבא ידו של אדם חשובה לו כארבעה על ארבעה, ועיי"ש רש"י ותוס' שנחלקו בפירוש הגמ', ובסוף כתבו בחוס': ור"ת ל"ג דאמר רבא ידו של אדם אלא וכדרבא ותו לא ואתא לשנויי דמגור ויוצא איצטריך ליה לאשמעינן דאגד יד לא שמיא אגד, ואהא מייתי כדרבא דאמר בהמצניע דאגד יד לא שמיא אגד, ומיירי כשהוא נשאר בפנים והוציא ידו אחת ובאחרת מגור לתוכה, ודוקא צירף למטה מג' דלמעלה משלשה שמיא אגד דבחר גופו גרירא. לפי פירושו זה של ר"ת, פסקו של הרמב"ם, שאם היתה ידו בתוך ג' סמוך לארץ הרי הוא כמי שהניח בארץ, ואגד יד לא שמו אגד, ויצא מגמ' כתובות. ודברי הר"ת עולים בקנה אחד עם פסקו של הרמב"ם.

לפי דברי ר"ת, הקטע בגמ' כתובות, שם, דאמר רבא ידו של אדם חשובה לו וכו' "הוא הוספה מאוחרת ממפרש שלא ירד לעומק הענין. ראשית נוסח הגמ' היה "כדרבא" מבלי לפרש לאיזה מאמר של רבא הרברים מכוונים, ובאמת כונת הגמ' היא להא דאמר רבא בפ' המצניע דאגד יד לא שמיא אגד. יש בדברי ר"ת אלו משום דוגמא מאליפה לבאר על פיה סוגיות אחרות בש"ס, שסוף הסוגיא או סוף המאמר הוא הוספה מאוחרת לראשית הרברים שכיוונו לענין אחר לגמרי.

<sup>148</sup> ע"י שבת, שם, דאמרו: ורמי דאב"י אדאב"י ורמי דרבא אדרבא, דאיתמר המוציא פירות לרה"ד אב"י אמר ביד חייב בכלי פטור, ורבא אמר ביד פטור בכלי חייב. איפוך. ביד חייב והתנן פשט בע"ה את ידו לחוץ וכו', התם למעלה מג' וכו'. ולפי מה ששנה הגמ' "איפוך" יוצא שאב"י אמר ביד פטור ורבא הוא דאמר ביד חייב. ולפי"ז כששאלו: ביד חייב והתנן וכו', הקושיה היא לרבא ולא לאב"י. אמנם לפי מה שכתב הרמ"ך להלן "וכי אמר איפוך מכלי הוא דאמר איפוך וכו' אבל מיד לא אמר איפוך" וכו', קושית הגמ' היא לאב"י. וע"י ברשב"א לשבת שם שכתב כמ"כ, וז"ל: ויש מפרשים רכלי בלבר הוא דמפכינן אבל יד כדקאי קאי וכו' וכי אקשי הכא וביד חייב אדאב"י בלבר הוא דאקשינן. ועיי"ש ברשב"א שאר הרברים שכתב בזה. וע"י גם ברק"ם שמביא גירסת כת"י אחד שם מפורש נאמרה קושית הגמ': ולרבא ביד חייב והתנן וכו'.



ממש לבסוף. ותימה למה התיר הוא זה. ונר שעל גבי טבלא<sup>140</sup> אע"ג דהוי פסיק רישיה כיון דהוי מקלקל התירו, אבל המכבה הדליקה שהוא מתקן, כל פסיק רישיה אסור, וצ"ע.

[ה"י]. הזורק מרשות לרשות או המושיט מרשות לרשות הרי זה תולדת מוציא וחייב.

הגה: היה לו לכתוב דבדיוטא אחת חייב שכן היתה הושטת הלויים. ותימה למה פטר כל מושיט, והלא חכמים מודים בשתי גזוטרואות דכזו בצד זו חייב, וצ"ע, 141.

[ה"ט]. נמצא כאן שלש מדות, כיצד עקר חפץ בר"ה ממקום זה ומניחו במקום אחר בר"ה אחר אם היה בין שני המקומות עד ד' אמות הרי זה מותר, היה ביניהן יותר מד' אמות ועדיין הן בתוך ה' אמות וג' חומשי אמה הרי זה פטור. היה ביניהם ה' אמות וג' חומשי אמה בשוה הרי זה חייב, שהרי העביר החפץ חוץ לאלכסונו של מרובע.

הגה: לא ידעתי מאין הוציא אלו הג' מדות כיון דפירש כפשטה הא דאמרינן במסכת עירובין המעביר ד' אמות בר"ה אינו חייב עד שיעביר הן ואלכסונו, 142 א"כ מה חילוק יש בין ד' אמות לה' אמות; אי ד' אמות מותר, ה' מותר; אי ה' פטור, ד' פטור. ולפי ההלכה כל פחות מד' אמות פטור אבל אסור, דכו ביום מחקו סאה. 143 גם מה שפירש דאינו חייב עד ה' אמות וג' חומשי אמות, לא ינהיר לן דכיון דחזונו מערי הלויים לא היה לנו לתת פאות כי אם כשהולך בפאות כמו בערי הלויים דלא יהבי' יותר מאלפים אמה כי אם באלכסון העיר אבל אם הולך כנגד העיר לא, כן המעביר מלפניו או מלאחוריו לא יהבינן אלכסון. ועוד דלא אישתמיט תנא וליתני המעביר ה' אמות וג' חומשין. ותמי' לן נמי לדבריו אם כן עמוד גבוה עשרה צריך שיהיה רוחב ה' וג' חומשין, דתרווייהו חזי' מזה יהיה לכם כזה יהיו כל שוכתי שבת, ואיהו גופיה כתב לקמן פרק י"ד<sup>144</sup> דתל הגבוה עשרה ורחב ד' חייב, וצ"ע.

פרק שלשה עשר [ה"ו]. בד"א כשהיתה ידו למעלה משלשה אבל אם היתה בתוך ג' סמוך לארץ הרי הוא כמי שהניח בארץ וחייב.

<sup>140</sup> גמ' שם, והמשך ההלכה שברמב"ם. ולבאר שיטת הרמב"ם עי' מ"מ.

<sup>141</sup> עי' כ"מ ובסוף פ' ג' ברמב"ם. ועי' ריש פ' הזורק.

<sup>142</sup> דף נ"א א'.

<sup>143</sup> לשון התוספתא שבת פ"א, והובאה בשבת, קנ"ג ב', ופירושה שבו ביום הרבו לגזור ואפי' פחות מד"א אסרו. ועיי"ש רש"י ורבנו חננאל ותד"ה בו. וראה גם ירושלמי שבת, פ"א ה"ד.

<sup>144</sup> הלכה א'. ועי' בכ"מ שהביא דברי הרמ"ך בשינוי לשון קצת ובהגהות מימונית, ועי' גם בהשגות הראב"ד. והרברים מן "ותמי' לן" עד "דתרווייהו" כתובים בשולי הגליון של הכת"י, והכנסתים בתוך דבריו, וכ"ה בכ"מ.

ובגמרא לא אמרו כי **אסור** <sup>135</sup> אבל לא אמר חייב, ובמסכת יומא פרק אמר להם הממונה <sup>136</sup> מפורש בהדיא דצירוף דרבנן הוא.

[ה"ו]. טלית שאחזו בה האור <sup>137</sup> פושטו וקורא בו ונותן מים מן הצד שלא נתלה בו האור עדין ואם כבתה כבתה.

הגה: הריא"פ לא הביא זה אע"ג דאתיא כת"ק ופסק כת"ק משום דהוי פסיק רישיה, וחזינן לאביי דקא לייט על כל פסיק רישיה כגון נר שאחורי הדלת וכגון ההוא דפותח אדם דלת כנגד המדורה. <sup>138</sup> וכיון שכן אסור לעשות מחיצה בכלים שודאי מתבקעים דהוה ליה כלא יתן לתוכו מים <sup>139</sup> שמכבה ניצוץ האש, הכא נמי הרי מכבה

מלאכה, וכשאינו מתכוין אין בו מלאכה כלל, שהרי אינו רוצה לעשות ממנו כלי". כלו' כיון שבצירוף כלי הוא חייב משום מכה בפטיש, ובמכה בפטיש, שהוא גמר מלאכת כלי, אין לחייבו אלא רק כשהוא מתכוין לגמרו ע"י כך. אבל אין שייך לומר בו "פסיק רישיה ולא ימות", כי מאחר שאינו מתכוין לכך אין בזה משום גמר מלאכת כלי. וסברא יפה היא. ועי' ברכת אברהם להר"א בן הרמב"ם ז"ל, שאלה י"ז, עמ' 26, שכתב לקיים דעת הרמב"ם שצירוף דאורייתא. והא דאמר שמואל, שבת, מ"ב א', מכבין גחלת של מתכת ברה"ר, שכמותו פסק הרמב"ם, הוא בכיבוי גחלת של מתכת שאין בו צירוף ואינו אלא מדרבנן, ומשום שרו רבנן כרי שלא יזקוקו בה רבים.

<sup>135</sup> שבת, מ"א ב', שאמר רב לצרף אסור. ועי' ברכת אברהם, שם, שכתב השואל כמו כן, שנראה שצירוף דרבנן. דאי איסורא דאורייתא לרב נמי תקשי האי אסור חייב מבעי ליה.

<sup>136</sup> יומא, ל"ד א': הני מילי בכל התורה כולה אבל הכא צירוף דרבנן הוא. ועיי"ש בברכת אברהם שכתב להוכיח נגמ' שבת ויומא שצירוף דאורייתא, וכתב עוד: "ודקאמרת והא בפירוש מוקימנא בפ' אמר להם הממונה דצירוף דרבנן הוא ולא ידענו אנה הוא אוקימתא זו לא בפירוש ולא בסתם וכו', אבל זה הפירוש שאמרת בפירוש מוקימנא דצירוף דרבנן לא ידעתי ולא שמעתי בלתי היום, ואפשר שיש בספרים שלכם גירסות משונות וכו'. ונראה שר' אברהם לא גרס בגמ' 'צירוף דרבנן הוא'. אמנם מתוך פירושו של ר"א לדברי אביי ביומא אפשר לנו לעמוד על גירסתו בגמ'. וז"ל שם: "ופריק אביי פירוק אחר אפי' תימא הגיע לצירוף ר' שמעון הוא דאמר דבר שאינו מתכוין מותר ומפני שאפשר שגיע לצירוף ואפשר שלא גיע אמר אביי ר"ש היא וכו'. כלומר רק במקום ספק אם גיע לצירוף, שאינו אסור אלא מדרבנן, אמר אביי דבר שאינו מתכוין מותר. ולפי"ז גירסתו בסוף הסוגיא היתה: הני מילי בכל התורה כולה אבל הכא דרבנן הוא. ולא גרס 'צירוף'. ועי' ברבנו חננאל יומא שם שכתב: ופרקינן אליבא דאביי ה"מ דסבר ר' יהודה דבר שאינו מתכוין אסור בכל התורה אבל הכא ביוה"כ צירוף כי האי גוונא דרבנן היא מ"ט לאו מלאכה שצריכה לגופה היא. לפי פירוש זה אין להוכיח מכאן שצירוף בכלל דרבנן הוא. אולם ר' אברהם סובר שטעם זה, שמלאכה שאינה צריכה לגופה היא, אינו מספיק, שכן אילו היה חייב משום צירוף, היה דינו כפסיק רישיה. ולגירסת הגמ' יומא, עי' עוד שם תר"ה הני מילי, ופי' המשניות להרמב"ם ודק"ס.

<sup>137</sup> צ"ל כאן "וכו'", כי כן היא הגירסא הנכונה ברמב"ם: טלית שאחזו בה האור פושטה ומתכסה בה ואם כבתה כבתה, וכן ס"ת שאחזו בו האור פושטו וקורא בו וכו'. וכו"ה דרפוסים, ובגמ' שבת, ק"ב א'.

<sup>138</sup> עי' שבת, ק"ב ב'. <sup>139</sup> משנה שבת, מ"ז ב', ורמב"ם פ"ה הי"ג.

הגהה: אעפ"י שהריא"פ פירש כדבריו,<sup>130</sup> אין נראין דבריו, דכיון דקיי"ל כר' יהודה דמלאכה שאינה צריכה לגופה חייב עליה, למה נתיר מלאכה משום צערא, דבשאר מזיקין אין בהם סכנה, וזה דבר ידוע; כי אם צרעה ופרעוש וכיוצא בהן אעפ"י שמזיקים אין הורגים, א"כ למה הותרה הריגתם, וצ"ע.

פרק שנים עשר [ה"א]. (כ"ש)<sup>131</sup> המבעיר כל שהוא חייב והוא שצריך לאפר אבל אם הבעיר דרך השחתה פטור מפני שמקלקל.

הגהה: כל זה לדעת ר' שמעון אבל לדעת רבי יהודה הא אצטריך הבערה גבי בת כהן,<sup>132</sup> וכיון שכן הבערה הרי היא ככל המלאכות שאם הקלקול יותר מן התיקון פטור ובדאי המבעיר קורה אחת משום האפר מקלקל הוא<sup>133</sup>. ויש מפרשים כפירושו ואין נראים דבריהם, וצ"ע.

[ה"ב]. המכבה כל שהוא חייב אחד המכבה הנר ואחד המכבה גחלת של עץ אבל המכבה גחלת של מתכת פטור ואם נתכוין לצרף חייב שכן עושין לוטשי ברזל וכו' ומותר לכבות גחלת של מתכת ברשות הרבים כדי שלא יזקקו בה רבים. תימה הוא<sup>134</sup> מן התורה איך מותר לכבות גחלת של מתכת, הא הוי פסיק רישיה,

<sup>130</sup> עי' רי"ף שבת, פ' כל כתבי, לדברי המשנה: כופין קערה ע"ג הנר וכו' ועל עקרב שלא תשוך. ח"ל: ושאר כל המזיקין אם היו רצין אחריו מותר להרגו לר"ה. ועיי"ש בר"ן וגם במ"מ לפנינו, שכתבו שהלכה זו היא דוקא לר"ש שפטר מלאכה שאינה צריכה לגופה, ולפיכך בשאין רצין אחריו אם דורסן לפי תומו פטור, אבל לר"י דמחייב מלאכה שאצ"ל אינו כן. והרמב"ם הרי פסק לעיל, פ"א ה"ז, כר", ולמה פסק כאן באין רצין אחריו אם דורסן לפי תומו פטור. והו' עצם קושיתו של הרמ"ך על הרמב"ם. ופליאה על הכסף משנה שתמה על הרמ"ך בזה. ועיי"ש. ודעת הרמב"ם היא כנראה שאפי' באין רצין אחריו יש בהם משום ספק פקוח נפש. וכן באר המ"מ את שיטת הרמב"ם, וז"ל: „ונראה שדעתו ז"ל שפקוח נפש הוא בהראותו בלבד". ולכאורה קשה כיון דפקוח נפש הוא, אמאי אסור להורגם אפי' ביושבים במקום. ונראה שרק כשהאדם מתקרב אל המזיקין לפי תומו בשעת הילוכו יש בזה משום פקוח נפש, אבל כשיושבין המזיקין במקום והאדם יכול להתרחק מהם לא.

<sup>131</sup> ר"ת זה אינו מובן לי. ועי' לעיל הערה 129.

<sup>132</sup> עי' שבת, ק"ו א', שם אמרו שר"ש מחייב מבעיר מדאסר רחמנא הבערה גבי בת כהן בשבת ש"מ מבעיר בעלמא חייב, אבל ר"י סובר כדברי רב אשי: מה לי לבשל פתילה מה לי לבשל סימנין, ומאחר שחייב על הבישול הרי אינו מקלקל בבישולו אלא מתקן. ועיי"ש פי' רש"י ותוס'.

<sup>133</sup> עי' בכ"מ שהיתה לו גירסא משובשת בדברי הרמ"ך, והנכון הוא כנוסח דבריו לפנינו: שאם הקלקול יותר מן התיקון.

<sup>134</sup> בכת"י חסרים כאן דברים אחרים, וצריך לגרוס בדבריו: אם צירוף מן התורה איך מותר לכבות גחלת של מתכות וכו', כגירסת הכ"מ. וקושיתו מיושבת במ"מ שבאר יפה את דעת הרמב"ם: „ומדברי רבינו שכתב שהכל תלוי בכונתו נראה דכל שאינו מתכוין אין ראוי לומר בו פסיק רישיה ולא ימות הוא וליחייב, מפני שכשהוא מתכוין הוא עושה

ענין. ויש לנו סיוע עוד לדבריו ההיא דמסכת עירובין פרק בכל מערבין<sup>123</sup> דמוקי לה במגדל של עץ וקא סברי אין בנין בכלים ואין סתירה בכלים.  
[הי"ז]. המפ"ס (מורסא)<sup>124</sup> שחין בשבת כדי להרחיב פי המכה הרי זה חייב משום מכה בפטיש.

תימה מאי מכה בפטיש שייך בזה והלא אין זה גמר מלאכה והיה לו לפרש משום בונה כפר"ש ז"ל,<sup>125</sup> וצ"ע.

[הי"ח]. המצדד את האבן ביסוד הבנין ותקנה במקום הראוי לה הרי זה חייב משום מכה בפטיש.

הגה"ה: והוא שישם סכיבותיה צרורות ועפר כדמפרש בגמרא,<sup>126</sup> ותימה אין הניח הוא מלפרש זה.

[הכ"ה]. נחשים ועקרבים אעפ"י שאין ממיתין הואיל ונושכין צדין אותם, והוא שיתכוין להנצל מנשיכתם, כיצד הוא עושה כופה עליהם כלי.

הגה"ה: תימה גדול דבכאן פסק כר' שמעון, ובפ"ק<sup>127</sup> פסק כר' יהודה דמלאכה שאינה צריכה לגופה חייב עליה, והא מתניתין דאם מתעסק שלא ישכנו מותר מוקי לה בגמ' כר' שמעון.<sup>128</sup>

פרק אחד עשר [ה"ב]. רמשים שהם פרים ורבים מזכר ונקיבה או נהוין מן העפר כגון הפרעושין ההורגם חייב.  
הגה"ה: אעפ"י שלא קבלנו כן מרבתינו, נראים דבריו דאנן משום פריה ורביה מפרשי.

[ה"ד]. (כ"ש)<sup>129</sup> חיה ורמש הנושכין וממיתין מותר להורגם בשבת, ושאר כל המזיקים אם לא היו רצים אחריו אסור להורגם, ואם דרסם לפי תומו והרגם מותר.

<sup>123</sup> ל"ה א'.

<sup>124</sup> צריך למחוק „מורסא“. ואעפ"י שבגמ' (שבת, ק"ז א') הגירסא היא: המפ"ס מורסא, מ"מ הגירסא ברברי הרמב"ם שעפ"י הרפוסים היא: המפ"ס שחין.

<sup>125</sup> כרש"י בכתובות, ו' ב', שכתב: חייב, שהוא מתקן פתח, וחייב משום בונה דאשכחן בנין בבעלי חיים דכתיב ויבן את הצלע (בראשית ב'). ועיי"ש בגליון הש"ס לרע"א, שהביא ראה לרש"י מגמ' שבת, צ"ה א': גודלת ופוקסת משום בונה. וכי דרך בונה בכך? אין כדרדש ר"ש בן מנסיא ויבן ה' אלהים את הצלע וכו'. אולם רש"י בשבת, ק"ז א', כתב: „חייב משום בונה פתח; או משום מתקן כלי, מה לי לתקן מכה מה לי לתקן כלי“. ואם הוא חייב משום מתקן כלי דינו כמכה בפטיש. ובשיטה זו הלך הרמב"ם.

<sup>126</sup> עי' לעיל הערה 121.

<sup>127</sup> הלכה ז'. ועיי"ש השגת הראב"ד. ולקושיה הרמ"ך עי' במ"מ להי"ז: המפ"ס

שחין בשבת וכו', מה שכתב לתרץ את הסתירה שבדברי הרמב"ם.

<sup>128</sup> שבת, ק"ז ב'.

<sup>129</sup> צריך למחוק: כ"ש.

[ה"ט]. התופר שתי תפירות חייב והוא שקשר ראשי החוט מכאן ומכאן כדי שתעמוד התפירה ולא תשטט. תימה למה לא כתב שיהא חייב שתיים משום קושר ומשום תופר כדברי הירושלמי<sup>120</sup> שזה בוודאי עשה שתי מלאכות קשר ותפר. [ה"ב]. אחד גותן האבן ואחד נתן את הטיט הנותן את הטיט חייב, ובנדבך העליון אפילו בלא טיט חייב. תימה למה הניח הבנין השלישי<sup>121</sup> שהוא בצרורות ועפרא כגון בדרא תתאה אעפ"י שלא נתן את הטיט, וצ"ע. [ה"ג]. וכן העושה כלי אדמה כגון תנור וחבית קודם שישרפו הרי זה תולדת בונה. הגה ה: בספר היראים לא פירש כן<sup>122</sup> והביא ראיות שאין בנין בכלים בשום

<sup>120</sup> כוונתו לרברי הירושלמי שבת, פ"ז ה"ב: דא"ר בא רב ירמיה בשם רב הממתח צדריו בשבת חייב משום תופר, נאמר משום תופר ומשום קושר? כל' אי ס"ד דלא הוי תפירה עד שיקשור, א"כ ליחייב נמי משום קושר (קרבן העדה). ויסוד דברי הרמב"ם הוא בנמ' שבת, ע"ד ב': והתופר שתי תפירות, והא לא קיימא? ארבע"א א"ר יוחנן והוא שקשרן. ומתוך קושיית הרמ"ך, דא"כ נחייבו גם משום קושר, הוכרח הר"א ממיץ לאמר: „דקושר קשר אחד לא מחייב שאינו מתקיים, דאי מחייב, כיון דתופר שתי תפירות לא משכחת לה בלא קשר, תיפוק ליה משום קשר, אלא ודאי כדאמרן, והכא בשלא קשר אלא קשר אחד עסקינן” (בלשון זה הביאו הר"ן). ועי' ספר יראים לרא"ם, הוצ' רא"א שיף, ווילנא תרנ"ב, עמ' קל"ז, וז"ל: אמר רבב"ח אר"י והוא שקשרן, פי' קשר קשר אחד התפירות, ומחייבין ליה משום תופר ולא משום קושר, למדנו שקשר אחד אינו קשר וכו'.

<sup>121</sup> עי' שבת, ק"ב ב': אלא תלתא בנייני הוו תתא מציעא ועילא, תתא בעי צדורי ועפרא, מציעא בעי נמי טינא, עילאי בהנחה בעלמא. ובמקום „צדורי ועפרא” כתב הרמ"ך „בצרורות ועפרא”. ואפשר שהיתה לו גירסא אחרת בנמ', אבל נראה שהוא אינו אלא מפרש את דברי הגמ'. וקושיית הרמ"ך על הרמב"ם הביא המ"מ בזה"ל: וראיתי מי שהקשה עליו למה לא הזכיר תחתון, ואינה קושיה שכבר הזכיר למטה בפרק זה (ה"ח) המצדר את האבן ביסוד הבנין וכו'. ובאמת תירוצו של המ"מ לקושיית הרמ"ך אינו עולה יפה, שהרי מה שכתב הרמב"ם למטה המצדר וכו' הוא גמר ואמר: חייב משום מכה בפטיש, וקושיית הרמ"ך במקומה עומדת למה לא יתחייב משום בונה. וכעין זה הקשה הרמ"ך על הרמב"ם לקמן ה"י. ועי' בספר מרכבת המשנה לר' אהרן אלפנדארי, עמ' ס"ד, שכתב לדברי הרב המגיד האלה וז"ל: ולי נראה דאפשר דכונת המקשה לרבינו ז"ל דאמאי כתבו לקמן משום מכה בפטיש ולא כתבו כאן גבי בונה, שהרי אותה גירסא שאמר חייב משום מכה בפטיש כתבו התוס' ז"ל שאינה נכונה, דלמסקנה דמוקי לה כתנאי לא שייך שם מכה בפטיש, ועוד דאכתי קאי בבונה ע"כ, וכפי זה הוה ליה לרבינו ז"ל לומר דחייב משום בונה וכו'. וכוונתו של בעל מרכה"מ היא לדברי התוס' שבת, ק"ב ב', ד"ה הכי גרסינן.

<sup>122</sup> עי' ספר יראים לרא"ם, הוצ' רא"א שיף, עמ' 280. ולשאלה זו, אם יש בנין בכלים, עי' תוס' שבת, ע"ד ב', ד"ה חביתא, ותוס' שבת, ק"ב ב', ד"ה האי. ועי' עוד מ"מ והגהות מיימוניות.



[ה"ג]. ואם היה חבל של גרדי (שמוטל) [שמותר] לטלטלו מביא וקושר בפרה ואבוס.

הגהה: מה מועיל טלטלו, כיון דפסקי' כרבנן דגזרי חבל דגרדי אטו חבל דעלמא,<sup>114</sup> והוא גופיה פסק הכי לעיל. ועוד דטעם חבל גרדי שמתיר רבי יהודה משום דלא מבטל ליה והכי מוכח בגמרא אבל חבל אחר אעפ"י שמותר לטלטלו אסור לקושרו שמא יבטלנו, וצ"ע.

[ה"ד]. כל הראוי למאכל בהמה כגון גמי לח מותר לקשור אותו בשבת ואם נפסקה רצועת סנדלו בכרמלית כורך עליה גמי לח וקושר הגמי.

הגהה: היה לו לומר אבל בחצר אסור<sup>115</sup> דילמא מבטל ליה והוי קשר של קיימא, והכי מפרש בגמרא. וא"ת יטלטלנו דהא עושה מעין מלאכה<sup>116</sup> שמא מיירי בחצר שאינה מעורבת ומנטר ליה, וזה הרב לא פירש לא כדברי ר"ש ולא כדברי רבי שריא, ונראין דבריו מדבריהם.

[ה"ה]. העניבה מותרת לפי שאינה מתחלפת בקשירה לפיכך החבל שנפסק מקבץ שתי קצותיו וכורך עליו משיחה ועונב עניבה. הגהה: אפילו קשר מותר כמתניתין דאמרין קושרין דלי בפסקיא<sup>117</sup> וכי קתני ובלבד שלא יענבנו<sup>118</sup> אחבל קאי ולא אפסקיא דהיינו משיחא. ותימה אמאי פסק כרבנן דאמרי לא היה קושרו אלא עונבו,<sup>119</sup> וצ"ע.

<sup>114</sup> שבת, ק"ג א': למימרא דרבנן סברי גזרינן חבל דגרדי אטו חבל דעלמא.

<sup>115</sup> שבת, ק"ב א': רבי ירמיה הוה קאזיל בתריה דר' אבהו בכרמלית איפסיק רצועה דסנדליה, א"ל מאי ניעבד לה א"ל שקול גמי לח דחזי למאכל בהמה וכרוך עילויה. אביי הוה קאי קמיה דרב יוסף איפסיק ליה רצועה. א"ל מאי איעביד ליה? א"ל שבקיה. מ"ש מדברי ירמיה? התם לא מינטר הכא מינטר. ופי' רש"י עובדא דאביי היה בחצר שמינטר, ולפיכך לא התירו ליטול להצניעו, אבל עובדא דרבי ירמיה היה בכרמלית שאינו מינטר. ובכת"י מינון כתוב, "בחצר" בעובדא דאביי (עי' בדק"ס). ודברי הרמ"ך שכתב, "דילמא מבטל ליה והוי קשר של קיימא" אינם מובנים כל צרכם. שהרי החילוק בין חצר לכרמלית לפי פירוש רש"י ור"ח הוא משום שבהפסד ממון התירו לקשור אותו בשבת במקום שאינו מינטר דוקא כגון כרמלית. אולם בר"ן הביא פירוש הראב"ד לגמ' זו השונה מפ"י הר"ח ורש"י, וז"ל: וכתב הראב"ד ז"ל דהיינו טעמא דשרי משום דכרמלית דלא מינטר לא מקצי ליה איניש אלא דעתיה עלויה לטלטליה ע"י גמי לח, אבל בחצר דמינטר מקצי ליה איניש מרעתייה עד דמתקן ליה ולא משום הפסד ממון נגעו בה.

<sup>116</sup> כל' הא דשאלו בגמ' שם, "והא מנא הוא" שפירשו הוא: ואמאי לא יטלטלנו והוא עושה בו מעין מלאכתו הראשונה. ודברי הרמ"ך, "שמא מיירי בחצר שאינה מעורבת ומנטר ליה" אינם מובנים, שהרי שאלת הגמ' היא לחצר דמינטר.

<sup>117</sup> שבת, ק"ג א'.

<sup>118</sup> כל' הא דאמר רבי יהודה שם: כורך עליו פונדא או פסקיא ובלבד שלא יענבנו.

<sup>119</sup> כל' ולרעת רבי יהודה עניבה קשירה מעלייתא היא. וקושייתו של הרמ"ך היא כנראה יסודה בזה דמסתמא דגמ' בעירובין, צ"ז א', דאמר אביי התם: "ר"י לטעמיה דאמר עניבה קשירה מעלייתא היא" משמע שהלכה היא כר"י. ועי' בהגהות מיימוניות.

הגהה: לא הבנתי זה ומפורש בגמרא בהדיא דבכלי פטור אבל אסור, דמקשינן בגמרא ומי איכא מידי דבכלי חייב חטאת וכיד מותר לכתחילה<sup>109</sup> והכי היה לו לכתוב דבכלי פטור אבל אסור, וצ"ע.

[ה"א]. המכבס את הבגדים הרי זה תולדת מלבן והסוחט הרי זה מכבס וחייב.

הגהה: אעפ"י שר"ש לא פירש כן,<sup>110</sup> נראים דברי זה הרב, דמשום מפרק ליכא למימר, דהא אמרינן אין דישה אלא בגדולי קרקע.<sup>111</sup>

[הט"ו]. העושה את הלבד הרי זה תולדת טווה.

הגהה: אעפ"י שרבותי מפרשים שהוא תולדת ממחק, נראים דברי זה הרב שהוא תולדת טווה,<sup>112</sup> והגאונים מפרשים כן.

פרק עשירי [ה"א]. אבל הקושר קשר של קיימא ואינו מעשה אומן פטור.

הגהה: נראה כי הוא הלך בשיטת הרי"ף ז"ל,<sup>113</sup> ואין נראין דבריו ולא היו רגילין לפרש כן רבותי. ונראים דבריהם דכיון שהמלאכה חזקה וקיימת ונעשית בלי שום שינוי, מה לי עשאה אומן מה לי עשאה הדיוט, ודברי ר"ש הם עיקר, וצ"ע.

נטלם בכלי חייב. ותמיהת הרמ"ך אינה מובנה כל צרכה. ועיקר השינוי שבין נוסח הרמ"ך ונוסח הרפוסים הוא בסוף דברי הרמב"ם, שברפוסים כתוב: „אם לא פירשו רובן וכו' אם נטלן בכלי חייב“, ומוסח הרמ"ך משמע שחייב בכלי אם רק אינן מצערות אותו, ואפי' אם פירשו רובן.  
<sup>109</sup> שבת, צ"ד ב'.

<sup>110</sup> עי' תוספתא, שבת, פ"ט: המכבס והסוחט מלאכה אחת היא. וכן הוא גם בירושלמי שבת, פ"ז ה"ב. ומשמע מזה ששניהם, כיבוס וסוחט, משום מלבן. וכן כתב גם רש"י בזהב"מ, צ"ד א', ד"ה היתה עליו וכו': וכיבוס אב מלאכה הוא דהיינו מלבן. וכוונת הרמ"ך היא כנראה לרב רש"י שכתב בשבת, קמ"ג ב': „אין סוחטין את הפירות דהוה ליה מפרק תולדה רדישה“. ואם בסוחט אינו חייב אלא משום מפרק, אין לחייב בסוחט את הבגד משום דאין פירק אלא בגידולי קרקע. אולם נראה שגם רש"י מורה בסוחט את הבגד שהייב משום מלבן, ורק בסוחטין את הפירות הוא כמפרק. ועי' במ"מ.  
<sup>111</sup> עי' לעיל הערה 92. והואיל ומפרק הוא תולדה דרש, אם אין דישה אלא בגדולי קרקע גם מפרק דינו כן.

<sup>112</sup> עי' בהשגת הראב"ד שמפרש „העושה את הלבד“ בלוקח צמר ושוטחו על גבי בגד עד שנעשה עבה, ונראה לו שהוא כמגבן והוא תולדת בונה. והרמ"ך נוטה בזה לדעת הרמב"ם.

<sup>113</sup> עי' שבת, ק"ב א': איתמר התיר רצועות מנעל וסנדל תני חרא חייב חטאת, ותניא אידך פטור אבל אסור, ותניא אידך מותר לכתחילה, קשיא וכו'; לא קשיא הא דקתני חייב חטאת בדאושכפי, פטור אבל אסור בדרבנן, מותר לכתחילה ברבנן מחוץ. ופי' הרי"ף: בדאושכפי דמעשה אומן הוא וקשר של קיימא; והא דתני פטור אבל אסור בדרבנן דמעשה הדיוט הוא אלא שהוא קשר של קיימא, בדרבנן מחוץ וכו' דלאו מעשה אומן ולא קשר של קיימא. הרי דעת הרי"ף דבעינן שניהם מעשה אומן וקשר של קיימא. אבל רש"י פי': בדאושכפי שהוא קשר קיים לעולם, בדרבנן שאינו קשר של קיימא וכו'. ולדברי רש"י אלה כוון הרמ"ך בכתבו שהם עיקר.

[ה"ג]. המבשל על האור דבר שהיה מבושל לכל צרכו או שאינו צריך בשול כלל פטור.

הגהה: נראה מדבריו שאם אינו מבושל כל צרכו אעפ"י שנתבשל כמאכל בן דרוסאי<sup>103</sup> חייב משום מבשל, וקשיא לן א"כ לדבריו הא"ך מותר לשהות על גבי כירה גרופה וקטומה דבר הצריך לו לאכול בלילה ניוחש דילמא מגיס כדגורנין בצמר ליורה דבעינן עקורה וטוחה,<sup>104</sup> אלא לאו ש"מ דכל דבר שנתבשל כמאכל בן דרוסאי אם מבשלו יותר אין בו משום מבשל, כדאמרינן כל שבא בחמין מלפני השבת שורים אותו בחמין בשבת.<sup>105</sup> ותרנגולתא דר' אבא מפרשי לה שלא כדברי הרי"ף ז"ל.<sup>106</sup> [ה"ה]. הניח בשר על גבי גחלים אם נצלה בו כגורגרת אפילו בשנים או שלשה מקומות חייב, לא נצלה כגורגרת אבל נתבשל כולו חצי בישול חייב. נתבשל חצי בישול מצד אחד פטור עד שיהפוך ויתבשל חצי בישול משני צדדין.

הגהה: לא ידעתי מאין הוציא זה, דמאי שנא בישול מצלי, וגם לא ידעתי מאי חצי בישול שהוא חייב, כי נתבשל כמאכל בן דרוסאי כולו בישול הוא לגבי שבת,<sup>107</sup> ואם לא נתבשל כמאכל בן דרוסאי, אמאי חייב לענין שבת, וצ"ע. [ה"ט]. צפורן שפירשה רובה וציצין של עור שפרשו רובן, אם פרשו כלפי מעלה ומצערות אותו, מותר ליטול אותם ביד אבל לא בכלי. ואם אינן מצערות אותו אסור לנטלם ביד, ואם נטלם בכלי חייב.<sup>108</sup>

<sup>103</sup> שבת, כ' א'.

<sup>104</sup> ע'י שבת, י"ח ב': אמר שמואל ביורה עקורה. וניחוש שמא מגיס בה? בעקורה וטוחה. וראה רמב"ם הל' שבת, פ"ג הל' י"ז.

<sup>105</sup> שם קמ"ה ב'.

<sup>106</sup> תרנגולתא דר' אבא בגמ' שם. והרי"ף מפרשה: שהיתה מלוחה ביותר וכשמבקשין לאוכלה שורין אותה במים חמין, ואם הובא בחמין מע"ש שורין אותה במים חמין בשבת וכו'. והרמ"ך כנראה מפרש שהיתה בשולה מע"ש. וכן פ' רש"י. ועיי"ש ברברי רב נסים גאון שכתב: תרנגולתא דר' אבא, כך פירשה ארוננו האי גאון ז"ל תרנגולת שמבשלין אותה ומוציאין אותה מהמרק וממלאין אותה בתבלין וכשרוצה לאכול ממנה שורין אותה במי חמים וכו'. וגם הוא שלא כפירוש הרי"ף.

<sup>107</sup> כמ"כ השיג גז הראב"ד שכתב: חצי בישול הוא כמאכל בן דרוסאי. ולזה כוון גם הרמ"ך באמרו. כי נתבשל כמאכל בן דרוסאי כולו בישול הוא לגבי שבת, כלו' הוא חייב עליו כבישול גמור. ולמקור ההלכה של הרמב"ם עיי' במ"מ.

<sup>108</sup> גירסתו ברברי הרמב"ם שונה מגירסת הרפוסים, שם נאמר: "מותר ליטול אותן בידו אבל לא בכלי, ואם נטלן בכלי פטור. ואם אינן מצערות אותו אפי' ביד אסור" וכו'. ועיי' בכ"מ שכתב: "נוסחא משובשת נודמנה להרמ"ך ברברי רבינו ולפיכך תמה עליו, ונוסחת ספרים דידן בספרי רבינו מכוונת". ולדעתי אפי' עפ"י נוסח הרמ"ך אינו כונח שהרמב"ם מחייב בכלי במקום שמותר ביד, שהרי כתב: אם מצערות אותו מותר ביד אבל לא בכלי, כלו' אסור אבל אינו חייב. ורק במקום שאינן מצערות אותו ואסור ביד אם

[ה"י]. והחולב לתוך האוכל או היונק בפיו פטור ואינו חייב עד שיחלוב לתוך הכלי.

רב אלפאסי לא התיר זה בשבת כי אם ב"ט, <sup>98</sup> ונראין דברי הרי"ף. [ה"ג]. הבורר אוכל מתוך פסולת בידו להניחה אפילו לבו ביום נעשה כבורר לאוצר חייב, היו לפניו שני מינין של אוכלין מעורבין בורר אחד מאחד ומניח לאכול מיד ואם בירר לאחר זמן אפילו לבו ביום כגון שבירר בשחרית לאכול בין הערבים חייב.

הגהה: לדבריו איכא חילוק בין שבת ל"ט, דב"ט מותר אפילו פסולת מתוך אוכל ובקנן ותמחוי כב"ה, <sup>99</sup> וצ"ע מי דחקו להחמיר כל כך בשבת יותר מ"ט. בפרק כלל גדול פריך קשיא דרב אשי אדרב אשי, <sup>100</sup> ומתוך כאן בקנן ותמחוי כאן בנפה וכברה ואפילו בקנן פטור אבל אסור.

[הט"ז]. המרקד והלש כגרוגרת חייב והמגבל את העפר הרי זה תולדת לש וכמה שיעורו כדי לעשות פי כור של צורפי זהב ואין גיבול באפר.

הגהה: צ"ע זה דהא מתוך בגמרא <sup>101</sup> הוא דמגבל הא דלא מגבל שאין אדם טורח לעשות טיט כל כך מעט אם לא יעשה לפי כור ולדברים אחרים, ומשום הכי אזלינן לשופכין ברביעית. אבל אם הוא מגובל חשוב שיעור פי כור וחייב המוציא, ואע"פ שעשה זה המגבל מלאכה חשובה כיון דאין דרך העולם לגבל ממנו בתר שכית אזלינן לקולא, וצ"ע.

פרק תשיעי [ה"א]. שיעור המחמם את המים כדי לרחוץ בהם אבר קטן.

הגהה: לא ידעתי מאין הוציא זה, וצ"ע. <sup>102</sup>

<sup>98</sup> עי' רי"ף שבת, ריש פרק כ"ב, והוא סומך שם את דעתו זו על בעל הלכות פסוקות. ועיי"ש במלחמת השם.

<sup>99</sup> ביצה, י"ד ב', במשנה מחלוקת ב"ש וב"ה. ועי' רמב"ם הל' יום טוב, פ"ג הט"ז, ובמ"מ שם לבאור ההבדל בזה בין שבת וי"ט לדעת הרמב"ם.

<sup>100</sup> שבת, ע"ד א'. ובדפוסים הגירסא היא שם: רב אשי מתני פטור והא תני חייב. ועיי"ש רש"י ותוס' שהתקשו בפי' הרברים, והא תני, כי אין למצוא מקור מפורש שם תנו חייב. אבל מדברי הרמ"ך נראה או שגרס, והא אמר רב אשי חייב, או שפירש, והא תני, כל' והא רב אשי תני חייב.

<sup>101</sup> שבת, ע"ח א'. ועיי"ש רש"י ור"ח. ובגמ' שם, ע"ט א': לפי שאין אדם טורח לגבל את הטיט לעשות פי כור.

<sup>102</sup> כנראה שהרמב"ם הוציא שיעור זה מן הסברא. וכשם שאמרו במשנה שבת, ע"ו ב': המוציא שמן כדי לסוך אבר קטן, כן גם המחמם מים, שדרכן לחמם לשם רחיצה, שיעורו כדי רחיצת אבר קטן. ועי' במגדל ע"ו שכתב: האופה עד אבר קטן פ' כלל גדול, דף ע"ה, ופ' כירה, דף ל"ח. ואיני יודע למה הוא מכוון במקורות אלו, כי אין שם זכר לשיעור זה של המחמם מים שהוא כדי רחיצת אבר קטן.

[ה"ז]. החולב את הבהמה והחובל בחי שיש לו עור חייב משום מפרק ואינו חייב עד שיהא בדם או בחלב שהוציא כגרוגרת.

הג"ה: לא הכנתי דבריו שהוא כתב בסמוך דמפרק תולדת דש וכתב אין דישה אלא בגדולי קרקע,<sup>92</sup> ובכאן אמר דחובל חייב משום מפרק שהוא תולדת דש. ועוד דחזינן בגמ' העושה חבורה בחלזון פטור משום דאין דישה אלא בגדולי קרקע,<sup>93</sup> ועוד דאי חולב הוי כחובל ושניהם תולדות מפרק, אמאי אינו חייב כל חובל שיצא ממנו דם אפילו אין לו עור ואע"ג דחבורה חוזרת כמו שחייב בחולב אע"ג דחוזר. ובירושלמי מפורש להדיא<sup>94</sup> המוציא דם חייב משום נטילת נשמה שבאותו מקום. ולזה הפירוש איכא לאפלוגי בין חבורה החוזרת לחבורה שאינה חוזרת, משום דבחבורה חוזרת ליכא נטילת נשמה וחבורת חלזון חוזרת.<sup>95</sup> מ"מ צריך לתרץ לפירושה ההיא דמסכת חולין<sup>96</sup> דאמרין ושאר שקצים ורמשים עד שיצא מהם דם. וכבר כתבנו הכל במקום אחר, וצ"ע.

[ה"ט]. שמונה שרצים האמורים בתורה הם שיש להם עורות כמו חיה ובהמה ועוף אבל שאר שקצים ורמשים אין להם עור, לפיכך החובל בהם פטור. ואחד החובל בבהמה ועוף או בח' שרצים ועשה בהן חבורה ויצא מהם דם או שנצרר הדם אע"פ שלא יצא חייב.

הג"ה: אם יצא מהם דם נראה מההיא דמסכת חולין<sup>97</sup> שחייב בכל השרצים כדאמרין ושאר שקצים ורמשים עד שיצא מהם דם, וצ"ע.

<sup>92</sup> ראשית ה"ז. ומקור ההלכה, שאין דישה אלא לגידולי קרקע, הוא בשבת, ע"ה א'. ודעת הרמב"ם היא, כנראה, שדברי רבנן, אין דישה אלא לגידולי קרקע, לא נאמרו אלא להוציא חלזון שהוא דג, אבל חיה ובהמה חשיבי כגידולי קרקע מאחר שמקור היותם הוא בצמחים שהם גידולי קרקע. וכקושיית הרמ"ך הקשה גם ר"ת על רש"י שפירש כהרמב"ם שמפרק הוא תולדה דרש. עי' תוס' שבת, ע"ג ב', ד"ה מפרק.

<sup>93</sup> שבת, ע"ה א'.

<sup>94</sup> ירושלמי שבת פרק שביעי, סוף ה"ב. למה ששנו במשנה: הצובעו, אמרו שם: מה צביעה היתה במשכון וכו', המוציא דם חייב משום נטילת נשמה שבאותו מקום. ועי' בקרבן העדה שמפרש: כי הדם הוא הנפש. והרמב"ם לא הביא טעם זה של הירושלמי, שחייב משום נטילת נשמה שבאותו מקום, ונראה שהוא סובר שאין מובנו של הכתוב, כי הדם הוא הנפש, אלא במוציא דם במידה כזו שגורם מיתה, אבל בחבורה אין נטילת נשמה, כי הנפש לא ניתנת להחלק לחלקים. ואין כוונת הכתוב אלא לאמר שנפש החיים תלויה וקשורה במידה ידועה של דם. אבל הירושלמי תפס את הכתוב כפשוטו, ואם הדם הוא הנפש, אפי' במקצת דם יש בו משום נפש. אנו רואים גם בזה את כיוון מחשבתו של הרמב"ם שנוטה היה לפעמים לבאר את הכתובים לא כפשוטם אלא בהתאם לאידיאה המכוונת שבהם, ובנידון רידן גם בהתאם לתוצאות המדע. (ועי' בלח"מ).

<sup>95</sup> להבדיל זה שבין חבורה חוזרת ואינה חוזרת, עי' שבת, ק"ז ב'.

<sup>96</sup> מ"ו ב', כל' מדברי הגמ' האלה משמע שאין להבחין בין חבורה חוזרת לאינה חוזרת.

<sup>97</sup> עי' לעיל הערה 96.



ביצה קלה הוא לבשל כגרוגרת מכביצה, וגרוגרת אחת משלש בביצה.<sup>85</sup>

הגה ה': לא דק בזה החשבון כי במסכת עירובין<sup>86</sup> אמרינן די"ח גרוגרות הוו שתי סעודות לשיעור עירוב, ושיעור עירוב הוו שתי ידות לככר מג' לקב שהם ה' בצים ועוד, והוא עצמו פירש אכילת פרס ג' בצים חסר שליש ביצה,<sup>87</sup> נמצא שבביצה אחת איכא יותר מג' גרוגרות. ונראה כי חשבוננו עשה על דרך הקרוב ולא על דרך האמת, הרי נראה כי הוא פסק כר' יוחנן בן ברוקא,<sup>88</sup> וג' ביצים בינוניות הוי אכילת פרס, ויפה כיון במה שכתב כאן.

[ה"ה]. ואין עמור אלא בגדולי קרקע.

הגה ה': תימה למה הניח רבא ופסק כאב"י, ורבא אמר האי מאן דכניף מילתא חייב משום מעמר אע"ג דלא הוי גדולי קרקע,<sup>89</sup> ואע"ג דרבא גופיה אמר אין דישה אלא בגדולי קרקע,<sup>90</sup> אין לנו לפרשה כפשטה כי היכי דלא תיקשי דרבא אדרבא. וצ"ע.

[ה"ה]. המקבץ דבילה ועשה ממנה עיגול הרי זה תולדת מעמר וחייב.

הגה ה': דוקא שקבצם ממקום שנפלו משם מן האילן אבל אם קבצם בבית לא, כדאמרינן במסכת י"ט דמעמיד ערימה לא הוי גמר מלאכה.<sup>91</sup>

<sup>85</sup> לשון הרמב"ם שעפ"י הרפוסים שונה קצת. והלשון "ביצה קלה" הוא לשון הנמ' שבת, פ' ב'.

<sup>86</sup> פ"ב ב', במשנה ובגמ'. גם הראב"ד השיג על הרמב"ם וכתב: קרוב הוא ואינו מכוון. ומתוך דברי הרמ"ך אנו עומדים על דעת הראב"ד. ועי' רב נסים נאון שם, ובפ' הר"ח. <sup>87</sup> איני יודע את המקור לפירוש הרמב"ם "חסר שליש ביצה". ולדעת הרמב"ם שאכילת פרס היא שלש ביצים, עי' ר"ע מברטנורה לנגעים פי"ג מ"ט: כדי אכילת פרס לדברי רש"י הם ארבע ביצים ולדברי רמב"ם שלש ביצים. ועי' תיו"ט שם. אחרי כתיבי הדברים האלה ראיתי בספר מרכבת המשנה להר"א אלפנדארי, דף ס"ב ע"ב, שכתב לדברי הרמ"ך האלה, וז"ל: "לא הבנתי כונתו שהרי רבינו ז"ל פסק בפ"א מהל' עירובין כר"י בן ברוקא ששיעור שתי סעודות הם ששה בצים ואיך כתב בדעת רבינו ז"ל שהם חמשה בצים וכו', ועוד שכתב דרבינו ז"ל ס"ל דאכילת פרס שלשה בצים חסר שליש, ואינו יודע היכא ראה כן דהא רבינו ז"ל בפ"א מהל' שביית עשור (טעות הדפוס היא, וצ"ל: בפ"ב) כתב דאכילת פרס הוא שלשה בצים עיי"ש, וצ"ע". עכ"פ דברי הרמ"ך תמוהים הם, ואולי גירסא אחרת היתה לו בדברי הרמב"ם.

<sup>88</sup> עי' פ"י המשניות להרמב"ם למשנה עירובין שם, וכלים פי"ז משנה י"א, שם כתב שהלכה היא כר"י בן ברוקא. וכן גם ביר החזקה, הל' עירובין, פ"א ה"ט, ועיי"ש במ"מ ובכ"מ.

<sup>89</sup> עי' במ"מ ובכ"מ שכתבו שהגירסא בשבת, ע"ג ב', היא "רבה" ולא "רבא" וספר מוטעה נזרמן להרמ"ך. ועי' בדק"ס שם, הערה ו', שהביא הגירסא "רבא".

<sup>90</sup> שבת, ע"ה א': אמר רבא מ"ט ררבנן קסברי אין דישה אלא לגדולי קרקע.

<sup>91</sup> ביצה, י"ג ב': ותנן נמי גבי בצלים משיעמיד ערמה ואילו גבי שבת העמדת ערמה פטור, אלא מאי אית לך למימר מלאכת מחשבת אסרה תורה וכו'.

פרק שביעי [ה"ב]. כל אלו אבות מלאכות וכל שהוא מענינם נקראים אבות, כיצד הוא ענינם אחד החורש או החופר או העושה חריץ קרוי אב מלאכה.

תימה הוא אם כל אלו אבות אמאי חשיב מ' חסר אחת היה לו לחשוב יותר מחמשים, ועוד דאמרינן בכמה מקומות מלאכה דהוי במשכן חשיבא וקרי לה אב, דלא הוי במשכן קרינה תולדה,<sup>78</sup> וחופר וחורץ ומבריק ומרכיב<sup>79</sup> ובוצר ומסיק לא היו במשכן, שלא היה צורך מלאכת המשכן לחפור ולחרוץ וגם לא היו צריכין להבריק ולהרכיב וליטע אילנות ולא לגדור תמרים ולמסוק זתים. וה"פ כולם מלאכה אחת הן<sup>80</sup> וכולם תולדה מזורע, ולאשמעינן אתא דאינו חייב אלא אחת על שתי תולדות ועל אב ותולדה חזינן<sup>81</sup> ממתניתין. וההיא דאמר זומר חייב משום נוטע<sup>82</sup> ולא מסייע ליה דמפרשינן ליה כמו שפרשוה המפרשים, וצ"ע.

[ה"ה]. כיצד המחתיך הירק מעט מעט לבשלו הרי זה חייב שזה תולדת טחינה.

הגהה: היה לו לפרש דוקא ירק שאינו נאכל חי, אבל ירק הנאכל חי כגון (שומר) [שום]<sup>83</sup> וכיוצא בו מותר לחתכו כמו הפת, כי היכי דלא תיקשי ליה יום הכיפורים שמותר בקניבת ירק,<sup>84</sup> וצ"ע.

פרק שמיני [ה"ה]. המעמר אוכלים לאכילה כגרוגרת, ואם להסקה כדי לבשל ביצה קלה, וכל מקום שנאמר לבשל

כן וכתב: ושמן ס"ל דהאי לא יאכלו לאנשים אחרים נמי קא אסרי, וקשי ליה לדעתיה דהא קי"ל הבא מחוץ לתחום בשביל ישראל זה מותר לישראל אחר וכו'.  
<sup>78</sup> עי' לדוגמה ריש ב"ק.

<sup>79</sup> והרמב"ם כתב בה"ג: וכן הזורע וזרעים או הנוטע אילנות או המבריק אילנות או המרכיב או הזומר כל אלו אב אחר הן מאבות מלאכות וכו'; ובה"ד כתב: וכן הקוצר וכו' או הבוצר ענבים וכו' או המוסק זתים וכו' כל אלו אב מלאכה אחת הן.  
<sup>80</sup> כל' הא דאמרו בשבת, ע"ג ב': הזורע והזומר והנוטע והמבריק והמרכיב כולם מלאכה אחת הן וכו'.

<sup>81</sup> נראה שצ"ל: כרחינן. וכוונתו למשנה ריש פ' כלל גדול.  
<sup>82</sup> שבת, ע"ג ב', דאמר ר' חייא בר אשי א"ר אמי זומר חייב משום נוטע וכו', משמע מזה לכאורה דנוטע אב הוא. אבל אפשר לפרש הא דאמרו שם, שהנוטע חייב משום זורע, שהנוטע הוא תולדה דזורע. וכן נראה גם מדברי התוס' שם, ד"ה משום. אבל רש"י כתב שם: חייב משום זורע, כל' אינהו נמי זורע הן, זה אב בזרעים וזה אב באילנות. והוא כדעת הרמב"ם שנוטע אב הוא.

<sup>83</sup> צ"ל: שום. וכ"ה בכ"מ.

<sup>84</sup> שבת, קט"ו א'. ועי' בתוס' שם, קי"ד ב', ד"ה אלא, שכתבו לחלק בין דין זה של קניבת ירק ביוה"כ להא דאמרו בפ' כלל גדול, ע"ד ב', האי מאן דפרים סילקא חייב משום טוחן, דהתם מיירי כשעושה חתיכות דקות מאד והכא מיירי כשעושה חתיכות גדולות. אמנם בתוס' שבת, ע"ד ב', ד"ה האי, כתבו: דוקא בסילקא שייך טחינה אבל שאר אוכלין שרי. והוא כעין דברי הרמ"ך המבחין בין נאכל חי לאינו נאכל חי.

תפילין<sup>71</sup> דבמציאה לא התירו להוליכה כי אם בסכנה, דקתני ובסכנה מוליכה פחות פחות מד' אמות. ויש לתרץ דמשום בזיון דכתבי הקדש אדם בהול עליהן ככיסו, ומשום הכי התירו במציאה דכיון דאין אדם בהול עליה לא אתי למיעבר לכתחילה<sup>72</sup> ד' אמות, וצ"ע. ועוד יש לתמוה אמאי לא התיר בכיס היכא דאין עמו חמור ולא נכרי,<sup>73</sup> וצ"ע. ויש לתמוה נמי אמאי התיר להוליכה פחות פחות מד' אמות דעביד טלטול דהוי שבות שיש בו מעשה, ובהזאה<sup>74</sup> לא התירו שבות בזה, ודחינן פסח,<sup>75</sup> ואסר אמירה לגוי דהוא שבות דאמירה, שמוטב שיאמר לנכרי דלא עביד כי אם אמירה, מלהוליכה דקא עביד טלטול, ואיכא למגזר שמא יוליכה ד' אמות, ואיכא שתי איסורות דרבנן, וצ"ע.

[הכ"ד]. פירות שיצאו חוץ לתחום וחזרו בשוגג יאכלו בשבת שהרי לא עשה בגופם מעשה ולא נשתנו, במזיד לא יאכלו עד מוצאי שבת.

הגה"ה: תימא אמאי לא פסק כרב פפא דהוא כתרסא דאמר בין בשוגג בין במזיד לא הפסידו את מקומם מ"ט אנוסים נינהו,<sup>76</sup> והרי"ף פסק כרב פפא, והוה ליה לשנויי חילוק בין הוציאם הוא עצמו להוציאם אחר<sup>77</sup> כמו שפירשו רבותי, וצ"ע.

כנראה גרס, "המוצא" בלא יור. וכשנשאל הרמב"ם ע"י חכמי לונלי נשתכח ממנו מקור ההלכה וכתב מה שכתב. ולדעתי אפי' אם נגרוס בנמ' ע"ז "המוציא" כגירסת הספרים שלנו נראה מגמ' זו שבמציאה נ"כ יכול להוליך פחות פחות מד', שהרי בנמ' הביאו את דברי ר' יצחק בכרי לבאר את העובדה שכמה כיסי קמשחכחי בשוקא ובני עמנו מוליכים אותם בשבת לביתם. ובין אם נגרוס "המוצא" או "המוציא" יש לבנות בנין יסוד לשיטת הרמב"ם מסוגיא זו שלא הבחינה בין מוציא מביתו למוצא מציאה בשוק שמוליכה פחות פחות מד'.

<sup>71</sup> דף צ"א א': והתניא ובסכנה מוליכין פחות פחות מד' וכו'.

<sup>72</sup> בשולי הגליון של הכת"י כתוב: נ"א בתחילה. וכ"ה הנוסח גם בכ"מ. ופי' דברי הרמ"ך הוא שיש לחלק לדעת הרמב"ם בין המוצא תפילין, שבגמ' עירובין התירו רק במקום סכנה להוליכן פחות פחות מד', ובין מציאה סתם, שאין אדם בהול עליה, וע"כ יש להתיר להוליכה פחות פחות מד', ואין לחשוש שמא יבוא לידי כך להעביר ד"א בתחילה.  
<sup>73</sup> ובאמת קבע הרמב"ם הלכה זו לק' פ"כ ה"ז. ופליאה על הרמ"ך שנעלם ממנו דבר זה. ובכ"מ שהביא את דברי הרמ"ך האלה, אינם הדברים: "ועוד יש לתמוה" וכו'.

<sup>74</sup> עי' משנה פסחים, ס"ה ב': א"ל ר"ע או חלוף מה אם הזאה שהיא משום שבות אינה דוחה את השבת וכו'.

<sup>75</sup> כנראה שהוא מכון בזה להא דאמרו בפסחים, ס"ו א', שכח ולא הביא סכין מע"ש מהו? כל' הבאת סכין אינה דוחה את השבת, ולא התירו להוליך את הסכין פחות פחות מד'.

<sup>76</sup> עירובין, מ"א ב', אמר רב פפא פירות שיצאו חוץ לתחום וחזרו אפי' במזיד לא הפסידו את מקומן מ"ט אנוסין נינהו. וכמ"כ השיג גם הראב"ד.

<sup>77</sup> וכן כתב גם רבינו יהונתן, בריש פ"ד עירובין, והקשה על הרי"ף על שלא פסק

ובבקר נכנסו בהם. ואם ידע שממקום פלוני הביאום בשבת ימתין כדי שיבואו מאותו מקום אחר השבת.

הגהה: כתב בכאן שני דברים האחד כדברי הרב אלפאסי, ואין רבתי מודים לו דכל ספק דרבנן לקולא וספק תחומין ספק דרבנן הוא,<sup>69</sup> והאחר כתב שלא כדברי המפרשים. ומפורש בהדיא בגמ' בברייתא דלא בעינן אלא בכדי שיבואו מחוץ לתחום אפי' יבואו מרחוק בעשר פרסאות, והלשון מוכיח דקתני כדי שיבואו ממקום קרוב ולא קתני בכדי שיבואו ממקום שהובאו משם, וצ"ע.

[הכ"ב]. מי שהיה בא בדרך וקדש עליו היום אם היו עמו מעות נותן כיסו לנכרי להוליכו לו ולמוצאי שבת יקח ממנו, בד"א בכיסו אבל מציאה לא יתנה לנכרי אלא מוליכה פחות פחות מד' אמות.

הגהה: תימה הוא דבגמ' משמע דבכיסו אם אין עמו נכרי ולא חמור מוליכה פחות פחות מד' אמות, אלמא דבמוליכה איכא למגזור יותר, והוא התיר במציאה להוליכה ולא לתתה לנכרי.<sup>70</sup> ובהדיא חזינן במסכת עירובין פרק המוצא

<sup>69</sup> בשבת, קנ"א, שנינו במשנה: נכרי שהביא הלילין בשבת לא יספור בהן ישראל אא"כ באו ממקום קרוב. ואמרו בגמ': מאי ממקום קרוב? רב אמר ממקום קרוב ממש, כלו' שידוע לנו שההלילין היו בתוך התחום. ושמאל אמר היישין שמא חוץ לחומה לנו. ופי' רש"י: אפי' הביא מחוץ לעיר אנו תולין להתיר ואומרים שמא בתוך התחום לנו ערב שבת וסופדין בהן למוצ"ש מיד וכו'. והרמ"ך פי' כרש"י, דכל ספק דרבנן לקולא, וע"כ אנו תולין ואומרים שההלילין לנו בתוך התחום במקום ספק. אבל הר"ף פי' את דברי שמאל בזה"ל: כלו' אע"ג דחזינן להו דעיילי בצפרא לא אמרינן אי לאו דעיילי מאתר קריבא לא הוו עיילי בצפרא, אלא אמרינן הכי מאתרא רחיקא אתו והאי דאתו בצפרא בליליא אזלי עד דמטו לחומה וכו'. נמצא שהר"ף מפרש את דעת שמאל לחומרא שבמקום ספק אנו חוששין שמא באו מחוץ לתחום. והרמב"ם כנראה פירש כמותו. וסוף דברי הרמב"ם: "ואם ידע שממקום פלוני הביאום בשבת ימתין כדי שיבואו מאותו מקום וכו' " הוא כדעת התוס' שבת, קנ"א ד"ה נכרי, ולא כרש"י שם.

<sup>70</sup> בגמ' שבת, קנ"א א', אמר רבא דוקא כיסו אבל מציאה לא, כלו' כיסו נותנו לנכרי אבל מציאה לא, ושם עמו' ב' אמרו: אין שם לא נכרי ולא חמור ולא חרש ולא שוטה ולא קטן מאי? אמר רב יצחק וכו' מוליכו פחות פחות מד' אמות. משמע שלענין כיסו כשאין שם נכרי התירו להוליך פחות פחות מד' אמות, אבל לא למציאה. ושאלה זו שאלו חכמי לוגיל להרמב"ם (סי' נ"ו, הוצ' מקיצי נדרמים). והרמב"ם הודה להם בתשובתו לאמר: אל תקטנו עצמכם, אם אין אתם כרבותי, הן אתם חבירי אלופי ומיורעי, וכל שהקשיתם ראוי להקשותו. והוא גומר שם ואומר: וכן יראה לי במציאה, שזה שחילק רבא בין כיסו למציאה לא חילק אלא ליתן המציאה לנכרי או להניחה על גבי חמור, אבל להוליכה פחות פחות מד' אמות, לא, שהרי הולכה פחות פחות מד' אמות אינה שנויה כדי שיאמר רבא דוקא כיסו אבל מציאה לא. והשגת הרמ"ך היא כשאלת חכמי לוגיל. ולבאור שיטת הרמב"ם עי' בקרבן נתנאל להרא"ש, שבת קנ"ג ע"ב, שכתב כי מקור ההלכה, שאפילו מציאה מוליכה פחות פחות מד' אמות הוא בגמ' ע"ז דף ע' ע"א: "כמה כיסו קמשתכחי בשוקא וכו' דאמר ר' יצחק המוציא כיס בשבת מוליכו פחות פחות מד' ". והרמב"ם

[ה"ג]. ליקט עשבים להאכיל בהמתו מניח ישראל בהמתו לאכול מהן, והוא שלא יהא הגוי מכירו לישראל שאם מכירו אסור שמא ירבה בשבילו.

הגהה: היה לו לפרש בד"א בפניו אבל שלא בפניו מותר, ורבא ואבאי לא פליגי בהא דפשיטא להו דבשלא בפניו מותר<sup>66</sup> אפילו בעשבים. ורבא התיר אפילו בפניו בנר משום דנר לאחד נר למאה. והריא"ף כמו כן הניח פלוגתא דאבאי ורבא ולא ידענא טעמא מאי, וצ"ע.

[ה"ד]. נפלה דליקה בשבת ובא נכרי לכבות אין אומרין לו כבה ואל תכבה.

תימה למה מניח מאי דאמר ר' אמי בדליקה התירו לומר המכבה אינו מפסיד,<sup>67</sup> והיה לו לכתוב נמי דקטן שבא לכבות אין שומעין לו, וצ"ע למה מניח הכל.

[ה"ה]. ואם היה הקבר באסרטיא וארון על גביו וכל העוברים ושבים אומרים שזה לפלוני הוא לא יקבר בו אותו ישראל עולמית מפני שהוא בפרהסיא, אבל מותר לקבור בו ישראל<sup>67</sup> לאחר מוצאי שבת אחר שהמתין בכדי שיעשו.

הגהה: כיון דלא נעשה האיסור בשביל האחר מותר לקבור בו מיד,<sup>68</sup> וכן כתב הר' יצחק בן מרן לוי, והמחמיר בגזירות דרבנן עליו להביא ראיה.

[ה"ו]. גוי שהביא חילין בשבת למת אפילו הביאם מצד החומה, ימתין למוצאי שבת כדי שייבאו ממקום קרוב ואח"כ יספור בהזם, שמא בלילה הביאום ממקום רחוק עד לחומה

בתוס' וברא"ש שהוכיחו מלשון המשנה דקאמר אסור בסתם משמע דאסור לכל ישראל ואפי' לישראל אחר. והתקשו בדברי הגמ', עירובין, מ' א', וביצה, כ"ה א', כי משם נראה ברור שמותר לישראל אחר, והוכרחו לחלק בין דרבנן לדאורייתא. אבל הרמ"ך כנראה לא הבחין בזה בין דרבנן לדאורייתא, ולפי"ז הגמ' עירובין וביצה תהא ראייה לשיטתו.

<sup>66</sup> וז"ל הגמ' שבת, קכ"ב א': מילא מיס להשקות בהמתו משקה אחריו ישראל וכו', בד"א שאין מכירו אבל מכירו אסור. כלו' במכירו יש לחשוש שמא עשה גם בשביל הישראל. והקשו שם בגמ': והא רבן גמליאל מכירו הוה? כלו' הא מעשה דר"ג וזקנים שהיו באין בספינה ועשה נכרי כבש לירד בו וירדו בו ר"ג וזקנים. ושנו: אמר אבאי שלא בפניו, רבא אמר אפי' בפניו נר לאחד נר למאה. ומפרש הרמ"ך את דעת רבא שגם הוא מודה דשלא בפניו הרי הוא כאינו מכירו. וכן כתב גם הר"ן דמכירו ושלא בפניו שרי. אבל הרי"ף והרמב"ם, שלא חילקו בין בפניו לשלא בפניו, סוברים כנראה שרבא חולק על אבאי בזה. ועי' גם ברא"ש, שלא הביא הא דאבאי ורבא, ובקרבן נתנאל שם.

<sup>67</sup> שבת, קכ"א א'. והרמב"ם הביא הלכות אלו בפ' י"ב ה"ז. ועי' בכ"מ.

<sup>68</sup> נראה שצריך להוסיף כאן המלה "אחר". וכ"ה נוסח הרמב"ם. והרמ"ך שינה

קצת מנוסח הרמב"ם שברפוסים.

<sup>68</sup> ועי' בכ"מ שהביא השגת הראב"ד, שאינה ברפוסים שלנו, וז"ל: וכתב הראב"ד לא הכל מודים לו שיהא ישראל צריך להמתין. והרמ"ך הלך בשיטת הראב"ד.



[ה"כ]. וכן תוקעין במוצאי שבת אחר צאת הכוכבים להתיר העם למעשיהן.

הגהה: לפי סוגית הגמ' הבריתא משמע שלא היו תוקעין במוצאי שבת דקתני ומוצאי שבת לא התיירו<sup>62</sup> היו מבדילים, ולא קתני לא היו תוקעים. מ"מ שמעתי שר"ה פוסק שתוקעין במ"ש לתרץ מה שרגילים להקשות בגמרא דקא מקשי וליתקע כי היכי דלידעו דחלבי שבת קרבים ביום הכפורים.<sup>63</sup> ויש סיוע לדבריו ההיא דקתני למוצאי שבת מבדילין ולא תוקעין<sup>64</sup> משמע דבחול תוקעין, וצ"ע.

פרק ששי [ה"ב]. גוי שעשה מלאכה מעצמו בשבת אם בשביל ישראל עשאה אסור ליהנות באותה מלאכה עד מוצאי שבת.

הגהה: צריך לפרש מאי טעמא אסור לישראל אחר, ואם מבשל בשוגג מותר לישראל אחר כ"ש זה.<sup>65</sup> ורבינו יעקב והראב"ד וכל הפוסקים אומרים דמותר לישראל אחר, וצ"ע.

<sup>62</sup> צריך למחוק „התירו“. וז"ל הבריתא, שבת, ק"ד ב': דתניא יוה"כ שחל להיות ערב שבת לא היו תוקעין וּבְמוֹצָאֵי שַׁבָּת לא היו מבדילין. ואולי פירוש דבריו „לא התיירו“, כלו' לא היה להם מה להתיר כי מה שאסור בשבת אסור ביוה"כ וע"כ לא היו מבדילין.  
<sup>63</sup> עי' בר"ה, שבת שס, שכתב על דברי הגמ': ליתקע כי היכי דליהוי ידעי דחלבי שבת קריבין ביום הכפורים, וז"ל: „וקשיא לן וכי יש תקיעה במוצאי שבת דאמר ליתקע במ"ש, והיו מן החכמים מפרשין ואמר' האי גירסא מאן דגרים ליתקע טעותא הוא, אלא הכי קאמר ראי רבי ישמעאל היא ניבדיל כי היכי דלידעו דחלבי שבת קריבין ביה"כ". מדבריו אלה משמע שאין תוקעין במ"ש. ועיי"ש שמביא ראה מן הירושלמי לגירסא זו של אלה המפרשים שגורסין „נבדיל“ במקום „ליתקע“. ובסוף דבריו כתב שם הר"ח: „וראינו שפירש בה רבינו האי הגאון וכו' דבערב יוה"כ נמי הות תקיעה להבטיל העם מן המלאכה ולהבדיל בין קודש לחול“ וכו'. כלו' הא דהקשו בגמ' „ליתקע כי היכי“ וכו' הוא לא תקיעה של מוצ"ש אלא של יוה"כ. עכ"פ נראה מדבריו אלה שאין תוקעין במוצ"ש. ואולי היה לרמ"ך מקור אחר לדעת הר"ח, שהוא מביא בזה, שתוקעין במוצ"ש. ועי' גם בפ' המשניות להרמב"ם סוף פ"א דהולין שכתב: „ובאור הענין שהתקיעות הם הערה על הכנסת הקודש וההבדלה הוא הערה על יציאת הקודש“. משמע שאין לתקוע במוצ"ש. וכן מהא דאמרו במשנה חולין, סוף פ"א, כל מקום שיש הבדלה אין תקיעה, משמע שאין תוקעין במוצ"ש. אולם מדברי הרמב"ם בפ' המשניות שם נראה שהדברים אמורים במקדש, כי ז"ל: ונתבאר בסוף סוכה שכל ערב שבת היו תוקעים במקדש שלש תקיעות להבדיל בין קדש לחול ואין עושין כן במוצאי שבת שאין שם צד לעשות זה וכו'. כלומר אין שום טעם להצריך לתקוע במו"ש במקדש, שכן עיקר מטרת התקיעה היא להודיע שמעכשיו מותר במלאכה, ועבודת קדשים הרי מותרת גם בשבת. ומה שכתב בזה שתוקעין במוצ"ש הוא מחוץ למקדש, והוא בכדי להודיע לעם שמעכשיו מותר במלאכה. ועי' באוצר הגאונים לרמ"ב לוי, מסכת שבת, חלק הפירושים, עמ' 75.

<sup>64</sup> משנה חולין, כ"ו ב'.

<sup>65</sup> ובכ"מ הקשה על דבריו אלה וכתב: ודברי הרמ"ך תמוהים שהרי דברי רבינו מבוארים במשנה וגמ' וכו'. ובאמת במשנה (שבת, קכ"ב א') נאמר רק: „ואם בשביל ישראל אסור“, ואפשר שהכוונה היא לאותו ישראל אבל לישראל אחר מותר. ועיי"ש

הגה ה: למה התחיל בדברי רבא<sup>55</sup> וסיים בדברי ר' יוחנן אם רוצה לפסוק כרבה היה לו לומר (משיראו שני ככבים)<sup>56</sup> משתשקע החמה עד שיכסיף התחתון והעליון ולא עוד, ואם רוצה לפסוק כר' יוחנן<sup>57</sup> היה לו לומר משיראו ב' ככבים עד שיראו ג'. גם יש לנו לתמוה על הריא"ף שהביא הכל. ונראה שרבה ור' יוחנן חולקין, וצ"ע. י"ל רבי יהודה אמר שמואל אמרה לתרויהו ש"מ חד שיעורא הוא.<sup>58</sup> [הי"ט]. התחיל לתקוע תקיעה שלישית סילק המסלק והטמין המטמין והדליקו הנרות.

הגה ה: נראה מדבריו שאסור להטמין על גבי הכירה שהצריכו לסלק מה שהוא מטמין,<sup>59</sup> משמע דס"ל דמטמין על גבי דבר המוסיף כמטמין בדבר המוסיף.<sup>60</sup> ור"ש ורבותי לא פירשו כן ומנהגנו לאכול חמין. וכך אנו מפרשין סילק המסלק מה שרוצה לאכול בלילה והטמין<sup>60</sup> המטמין על גבי כירה מה שרוצה לאכול מחר.<sup>61</sup>

<sup>55</sup> צ"ל רבה. כ"ה הגירסא ברפוסים, וכן גרס גם הרמ"ך כמו שיש לראות מהמשך דבריו.

<sup>56</sup> צריך למחוק הרברים האלה.

<sup>57</sup> בשבת, ל"ד ב', מחלוקת רבה ורב יוסף: אמר רבה א"ר יהודה אמר שמואל כרוך ותני איזהו בין השמשות משתשקע החמה כל זמן שפני מזרח מאדימין והכסיף התחתון ולא הכסיף העליון נמי בין השמשות, הכסיף העליון והשוה לתחתון לילה. ורב יוסף א"ר יהודה אמר שמואל הכי קתני משתשקע החמה כל זמן שפני מזרח מאדימין יום הכסיף התחתון ולא הכסיף העליון ביהש"מ, הכסיף העליון והשוה לתחתון לילה. ושם ל"ה א': אמר רבי יוחנן הלכה כרבי יהודה לענין שבת, כל' הא דאמר ר' יהודה שם בברייתא משתשקע החמה כ"ז שפני מזרח מאדימין הכסיף התחתון ולא הכסיף העליון בין השמשות. וכתב הרי"ף: לא ירעין אליבא דמאן פסק אי אליבא דרבה ואי אליבא דרב יוסף, וכיון דלא איברר לנו כמאן מינייהו פסק עבדינן לחומרא וכו'. אבל לא מצאנו בגמ' שיאמר רבי יוחנן מפורש משיראו שני ככבים עד שיראו שלשה. ואולי היתה לו גירסא אחרת בגמ'. והכ"מ הביא את דבריו אלה ולא בארם.

<sup>58</sup> שם, ל"ה ב': א"ר יהודה אמר שמואל כוכב אחד יום, שנים בין השמשות, שלשה לילה, ושם, ל"ד ב', חלקו רבה ורב יוסף בדעת שמואל בבאור דברי רבי יהודה משתשקע החמה וכו', ש"מ שחד שיעורא הוא.

<sup>59</sup> מתוך שלא באר הרמב"ם את דבריו וכתב כלשון הברייטא, שבת, ל"ה ב', סלק המסלק, ובלי הוספת באור, משמע שהוא סובר שאסור להטמין ע"ג הכירה. אבל רש"י פ"י שם: סלק המסלק, קדרות העשויות להסתלק למאכל הלילה. ומכאן שקדרות שאינן עשויות למאכל הלילה אין לסלקן.

<sup>60</sup> כאן כתובה הערה בשולי הגליון של הכת"י ו"ל: „ואע"ג דלא נגע בדבר המוסיף וכו'". כל' ואע"ג שלא כתב הרמב"ם מפורש שהוא דן בדבר המוסיף הבל.  
<sup>60</sup> מכאן עד סוף המאמר כתובים הרברים בשולי הגליון של הכת"י.

<sup>61</sup> כאן כתוב בשולי הגליון של הכת"י: „הגהה, זהו גירסת רב אלפס ולא פירשו כן רבותי ולא נמצאת בכל הספרים ואין נכון להטמין בדבר המוסיף בין השמשות גזירה שמא יטמין ברמץ. ועוד יש לדקדק על דבריו בזאת הגירסא". הרברים האלה אין מקומם כאן אלא לעיל, פ"ד ה"ב, ושם הם נמצאים בגוף הכת"י.

לא התירו כי אם למי שלא עשה איסור בשעה כגון שקרמו פני הפת קודם שחשכה, אבל למי שעשה איסורא<sup>50</sup> מנא לן דהתירו לאכול אפילו ירדה אותו הגוי מאליו, וצ"ע.

פרק רביעי [ה"ב]. מן הדין היה שטומנין בדבר המוסיף [הבל] מבעוד יום אלא גזירה שמא ירתיח הקדרה בשבת ויגלה אותה עד שתנוח הרתיחה ויחזור ויכסה בשבת ונמצא טומן בשבת בדבר המוסיף [הבל], לפיכך מותר להטמין בדבר המוסיף [הבל] בין השמשות.

הגהה: זו גירסת הרי"ף ולא פרשו כן רבותי<sup>51</sup> ולא נמצאת בכל הספרים. ואין נכון להטמין בדבר המוסיף בין השמשות גזירה שמא יטמין ברמץ. ועוד יש לדקדק על דבריו בזאת הגירסא.

פרק חמישי [ה"א]. הדלקת נר בשבת אינה רשות, שאם רצה מדליק ואם רצה אינו מדליק, ולא מצוה, שאינו חייב לרדוף אחריה עד שיעשה כגון עירובי חצירות או נטילת ידים לאכילה, אלא חובה. ואחד אנשים או נשים חייבים להניח בבתיהם נר דלוק בשבת.

הגהה: נטילת ידים לאכילה בודאי חובה (הם) [היא] וחייבו אותו חכמים עד ד' מילין<sup>52</sup> וחייב לחזר על אותה מצוה כמו שחייב אדם לחזר על כל המצות שהם מדברי סופרים. וי"ל אי בעי אכיל פירי.<sup>53</sup>

[ה"ג וה"ד]. ספק חשכה זה בין השמשות ספק נכנס שבת ספק לא נכנס.<sup>54</sup> ומשתשקע החמה עד שיראו שלשה ככבים בינונים הוא בין השמשות ודנין בו להחמיר לפיכך אין מדליקין.

<sup>50</sup> ורעת הרמב"ם היא שבשוגג מותר לו לרדות ממנה מזון שלש סעודות.

<sup>51</sup> הרי"ף והרמב"ם גרסו בגמ' שבת, ל"ד א', כגירסת הגאונים (ועי' מ"מ ואוצר הגאונים לב. מ. לוין, כרך ב', עמ' 35), והר"ן והמ"מ הביאו השגת הראב"ד בזה (אינה ברפוסים שלנו), שהקשה עליהם היאך אפשר שבדבר המוסיף הבל יהא אסור מבעוד יום ובין השמשות יהא מותר, וע"כ פירש את הגמ' שם באופן אחר על יסוד גירסא אחרת, וכן גם רש"י לא גרס כגירסת הגאונים. והרמ"ך מכוון לרש"י ולהראב"ד בכתבו: ולא פסקו כן רבותי.

ובשולי הגליון של הכת"י כתובה כאן הגהה ח"ל: „הוא הלך בדרך הירושלמי והניח הגמ' שלנו וכו'“, כל הדברים שהבאנו לעיל לפ"ג הל' ט"ז, ער סוף דבריו שכתב שם: וכל זה סיוע לדבריו. וט"ס היא בכת"י כי אין מקומם כאן אלא בפ"ג הל' ט"ז, ושם נמצאים הדברים בגוף הכת"י. ומעל השורה בכת"י כתוב ביחס להגהה זו: „שייך לפרק רביעי“, וצ"ל שייך לפ' ג'.

<sup>52</sup> חולין, קכ"ב ב'.

<sup>53</sup> כל' אינו מחויב לאכול פת כדי לקיים מצות נטילת ידים. ועי' במ"מ.

<sup>54</sup> צ"ל כאן: אין מדליקין. והדברים האלה הם ברפוסים בסוף הל' ג', ומכאן

ואילך הל' ד'.

הגהה: תמה מה שפירש כי התרמוס אין צריך בישול הרבה והלא שלקי ליה שבע זימנין,<sup>40</sup> ואדרבא איפכא מסתברא כי התרמוס הוא קשה כל כך לבשלו ואין כל (היום כל) הלילה<sup>440</sup> די להם לא יחתה בגחלים, והטעם שכתב הוא נכון לחבית של מים.

[ה"טז]. אין צולין בשר בצל וביצה על גבי האש אלא כדי שיצולו מבעוד יום ויהיו ראויים לאכילה, ואם נשארו אח"כ בשבת על האש עד שצלו הרבה מותר שהוא מצטמק ורע לו שאם יחתה יחרוך אותם.

הוא הלך בדרך הירושלמי<sup>41</sup> והניח הגמרא שלנו, דבגמרא שלנו מקשה רבא<sup>42</sup> לשהות תנינא ומייתי לה מיהא דאין צולים<sup>43</sup> ולא קא משני לה התם א"י יחתה יחרוך, אלמא מי שהתיר לשהות צלי התיר לשהות קדרה, והוא התיר צלי ואסר קדרה.<sup>44</sup> ובפ"ק גמי חזינן<sup>45</sup> דאמר תניא גמי הכי חנניא אומר וכו' אלמא דצלי ומבושל אחד הם. מ"מ יש להביא סיוע לדבריו דרב גופיה דאסר התיר לשהות בצלי כמאכל בן דרוסאי,<sup>46</sup> דהכי אמר רבי אלעא אמר רב כמה כדי שיצולו כמאכל בן דרוסאי. וצ"ע גמי אמאי לא מוכח בריש פרק דכירה דמתניתין להחזיר תנן אבל לשהות משהין מיהא דאין צולין כדמוכח רבא לקמן, וכל זה סיוע לדבריו.

[ה"יח]. אין נותנין פת בתנור עם חשכה ולא חררה על גבי גחלים אלא כדי שיקרמו פניה המדובקין<sup>47</sup> בתנור או באש, ואם נשארו שם אח"כ עד גמר אפייתם מותר שאם יחתה יפסיד אותם. הגהה: תימא הוא זה דהא איהו גופיה פסק לעיל<sup>48</sup> דכל תבשיל שלא בשל כל צרכו אם עבר ושהה אסור לאוכלו, ובלא בשיל כמאכל בן דרוסאי ולא גרף ולא קטם לדברי כל המפרשים אסור. וכשהתירו חכמים לרדות מזון שלוש סעודות<sup>49</sup>

<sup>40</sup> ביצה, כ"ה ב': כתורמוס הזה ששולקין אותו שבע פעמים וכו'. ורש"י בשבת, י"ח ב', פירש כמותו, וז"ל: עססיות ותורמוסין מיני קטניות וצריכין בישול יותר. ועי' במ"מ שמביא פירוש זה בשם אחרים.

<sup>410</sup> מהנקודות על גבי היום בכת"י נראה שאין לגרוס כל היום אלא כל הלילה.  
<sup>41</sup> כוונתו, כנראה, לדברי הירושלמי שבת, פ"א ה"י: ר' זעירא בעי (כלו' פריך) בשר בצל וביצה מצטמק ורע לו וזה מצטמק ויפה לו וכו'. הרי בזה הבחין ר"ז בין צלי לחבשיל של קדרה.

<sup>42</sup> שבת, ל"ז ב'.

<sup>43</sup> נוסח הגמ' שם: לשהות תנינא אין נותנין את הפת בתוך התנור וכו', שהיא סיפא דמשנה אין צולין וכו' שבת, י"ט ב'.

<sup>44</sup> עי' רמב"ם לעיל, פ"ג ה"ה. <sup>45</sup> שבת, כ' א'.

<sup>46</sup> שם, ל"ז ב', אסר רב מצטמק ויפה לו, ושם, כ' א', שנינו: א"ר אלעזר אמר רב כדי שיצולו מבעוד יום כמאכל בן דרוסאי וכו'. עי' תוס' שם, ל"ז א', ד"ה אא"ב.

<sup>47</sup> עי' כ"מ שמביא גירסא בדברי הרמב"ם: כדי שיקרמו פניה שאינם מודבקים בתנור, וט"ס היא, וצ"ל: המדובקים בתנור. ובכת"י שלנו כן היא הגירסא באמת.  
<sup>48</sup> פ"ג ה"ט. <sup>49</sup> שבת, קי"ז ב'.

[ה"י]. כל שמותר לשהותו על גבי האש כשנוטלים אותו בשבת אסור להחזירו למקומו, ואין מחזירין אלא על גבי קדרה<sup>34</sup> גרופה, והוא שלא הניח קדרה על גבי קרקע אבל משהניח על גבי קרקע אין מחזירין אותה.

הגהה: תימא הוא זה, למה הניח זה הרב איכא דאמרי שהלכה כמותו בכל התלמוד ופסק ללישנא קמא,<sup>35</sup> דללישנא בתרא אפי' הניחם על גבי קרקע כל שדעתו להחזיר מותר. ואף כלישנא קמא לא פסק, דללישנא קמא אפי' לא הניחם על גבי קרקע יהיה אסור אם אין דעתו להחזיר. ומה שאסר תנור בכל ענין אפי' גרף או קטם, לא ידענו מאין הוציא זה, דכיון דעבד היכר בכל ענין מותר, וכן פרשו לנו רבותי ז"ל.

[ה"א]. אסור להכניס מגרפה לקדרה והיא על גבי האש להוציא ממנה בשבת מפני שמגיס בה.

הגהה: היה לו לפרש בד"א כתבשיל שלא בשל כל צרכו אבל כתבשיל שבשל כל צרכו מותר.<sup>36</sup> ומנהגנו להגיס כתבשיל שבשל כל צרכו, מ"מ צ"ע לפירושו. ולפר"ש שפירש<sup>37</sup> והלא מגיס ומקרב הבישול, א"כ היאך מותר לשהות קדרה חתא<sup>38</sup> אפי' לא גרף אליבא דדברי הכל ואמאי לא גזרינן דילמא מגיס, וצ"ע. ונראה לפרש והלא מגיס והוי צובע כדרך הצובעין שמגיסים הבגדים לקלוט הצביעה. וי"ל כיון דקדרה חתא מסח דעתיה מינא ולא מגיס.

[ה"ב]. לא ימלא אדם קדרה עששיות ותרמוסים או<sup>39</sup> מים ויתן לתוך התנור ע"ש עם חשכה וישהא אותם, שאלו וכיוצא בהן אעפ"י שלא בשלו כל עיקר כתבשיל שלא בשלו כל צרכו הן מפני שאין צריכין בישול הרבה ודעתו לאכלן לאלתר.

<sup>34</sup> צ"ל: כירה.

<sup>35</sup> וי"ל הגמ' שבת, ל"ח ב': אמר חזקיה משמיה דאביי הא דאמרת עורן בידו מותר לא אמרן אלא שדעתו להחזיר אבל אין דעתו להחזיר אסור, מכלל דע"ג קרקע אע"פ שדעתו להחזיר אסור. איכא דאמרי אמר חזקיה משמיה דאביי הא דאמרת ע"ג קרקע אסור לא אמרן אלא שאין דעתו להחזיר אבל דעתו להחזיר מותר מכלל וכו'. והרמב"ם פסק כלישנא קמא ולא חילק בין דעתו להחזיר לאין דעתו להחזיר. ראשית דברי ההגהה של הרמ"ך עד המלה "ופסק" היא בשולי הגליון של הכת"י.

<sup>36</sup> כן פי' המ"מ את דעת הרמב"ם וי"ל: וי"ל שאין דברי רבינו אמורין במבושל כל צרכו וכו'. והמ"מ הביא בזה השנה הראב"ד שאינה ברפוסים שלנו. ויסוד דברי הרמ"ך והשנה הראב"ד אחר הוא. ומדברי הרמ"ך יש לעמוד על דעת הראב"ד.

<sup>37</sup> עי' רש"י שבת, י"ח ב': וניחוש שמא מגיס בה, מהפך בה ובמבושל הוי בישול. ובכס"מ, שהביא את דבריו אלה, כתוב: מ"מ צ"ע לפירושו שפירש. אולם עפ"י נוסח דבריו לפנינו קושינו היא לרש"י.

<sup>38</sup> שבת, י"ח ב'.

<sup>39</sup> צ"ל: חבית של מים. כ"ה ברפוסים. ומסוף דברי הרמ"ך שכתב: והטעם שכתב הוא נכון לחבית של מים, נראה שגם הוא גרס כן.



[ה"ד]. לפיכך אם גרף את האש או שכסהו באפר מותר לשהות שהרי הסיח דעתו מזה התבשיל ולא יחתה בגחלים.

צ"ע היאך הסיח דעתו שהרי בדעתו לאוכלה בלילה, ומי לא עסקינן דאין לו תבשיל אחר כי אם זה. והטעם הנכון משום דעבד היכר כיון דגרף או קטם ולא אתי לחתויי, וכן פרשו רבותי.

[ה"ה]. בד"א בכירה שהבלה מועט אבל תנור אעפ"י שגרף האש<sup>27</sup> הואיל והבלו חם ביותר אינו מסיח דעתו וחוששין שמא יחתה בזו האש המעוטה אעפ"י שהוא קש וגבבא.

הגהה: צ"ע מאין זה, דמתניתין לא אסר כי אם תנור שהסיקוהו בקש וגבבא דאגב חמימות התנור הקש והגבבא בוערות ואיכא למיגזר, אבל אם גרף וקטם דעביד היכר אפי' בתנור מותר. וליכא חילוק בין תנור לכירה כי אם בלסמוך היכא דלא גרף דבתנור אסור ובכירה מותר, דבקש וגבבא לא צריך קטימה דלאלתר הויא קטומה.<sup>28</sup>

[ה"ז]. הכופח הבלו רב מהבל הכירה ומועט מהבל התנור לפיכך אם הסיקוהו בגפת או בעצים הרי הוא כתנור ואין משהין בתוכו ולא על גביו ולא סומכין לו תבשיל שלא בשל כל צרכו. צ"ע למה אסר לסמוך היכא דגרף וקטם, ואב"י דאסר לסמוך בלא גרף איירי ותניא כותיה דאב"י<sup>29</sup> והוא מוקים למתניתין בשלא גרף, ובכי האי גוונא קא אסר לסמוך דהוי סמיכת כופח ותנור כעל גבי כירה, וצ"ע. [ה"ט]. כל תבשיל שאסור לשהותו אם עבר והשהה אותו אסור לאוכלו עד מוצאי שבת<sup>30</sup> ואם בשל כל צרכו ומצטמק ויפה לו מותר לאוכלו בשבת.

לא הכנתי פירושו, כי הוא<sup>31</sup> פסק לא כר' מאיר ולא כר' יהודה.<sup>32</sup> ואם לא פירש מילתא דר' יהודה בדיעבד, תמה לן אמאי אסר דייעבד משום בעיא דעבר ושהה,<sup>33</sup> הא קיימא לן דכל תיקו דרבנן לקולא, ודבריו ודברי הריא"ף צ"ע בזה.

<sup>27</sup> צ"ל: וכו'.

<sup>28</sup> והרמב"ם, כנראה, הוציא הברל זה בין תנור לכירה מדברי רב אדא בר אהבה שבת, ל"ח ב', דאמר: „הכא בכופח גרוף וקטום ותנור גרופה וקטומה עסקינן הרי הוא כתנור, דאע"ג דגרוף וקטום על גביו אסור, ראי ככירה כי גרופה וקטומה שפיר דמי". הרי נראה מזה שבתנור אע"פ שגרוף וקטום אסור על גביו, ובכירה כשהיא גרופה וקטומה מותר.

<sup>29</sup> שבת, ל"ח ב'. ולכל הדברים שכתב הרמ"ך בענין זה עי' כ"מ.

<sup>30</sup> נראה שצ"ל כאן „וכו'"; וז"ל הרמב"ם בזה: וימתין בכדי שיעשו, ואם שכחו אם תבשיל שלא בשל כל צרכו הוא אסור עד מוצאי שבת, ואם תבשיל שבשל כל צרכו הוא ומצטמק וכו'.

<sup>31</sup> מעל השורה כתוב בכת"י „לא".

<sup>32</sup> שבת, ל"ח א'.

<sup>33</sup> שם. וכן השיג גם הראב"ד. ועי' בכ"מ.

[הכ"א]. נעקרו כולם מחצר אחת לחצר אחרת ובשעת עקירתם פירש אחד מהם ונכנס לחצר אחרת ונפלה עליו ואין ידוע מי הוא, מפקחים שכין שעקרו כולם אין בהם ישראל קבוע, וכל הפורש מהן כשהן מהלכין הרי זה בחזקת שפירש מן הרוב. תימה לן אמאי לא פסק כשמואל דאמר אין הולכין בפקוח נפש אחר הרוב, דהא ליכא מאן דפליג עליה. ורבי יוחנן סבירא ליה כותיה.<sup>21</sup> וסוגיא דיומא אזלא דאפי' באומדנא לא אזלינן בתר רובא. ועוד תמיהא לן מילתא מה שכתב בסמוך לפיכך אם היה הרוב ישראל אפ"י שנעקרו כולם ופירש אחד מהן לחצר ונפלה עליו מפקחין, דמשמע טעמא דרוב ישראל הא מחצה על מחצה לא, וזה דבר שאי אפשר דודאי במחצה על מחצה מצילים, ובגמרא בעי אפי' ברוב גוים אם הישראל קבוע פשיטא דמחללים וכ"ש במחצה על מחצה.

פרק שלישי [ה"ב]. וטוענין בקורת בית הבד ובעיגולי הגת עם חשכה והמשקים הם זבים והולכין כל השבת כולה.

היה לו לכתוב דמחוסרים דיכה אסור כדפריש ר' יוחנן דמחוסרין דיכה כ"ע לא פליגי דאסור<sup>22</sup> ובמחוסרין שחיקה הוא דמותר, וכן כתב הרי"ף, וצ"ע. ה"ג והני כמחוסרים שחיקה דמו.<sup>23</sup>

[ה"ד]. כיצד תבשיל שלא בשל כל צרכו<sup>24</sup> כל זמן שמצטמק ויפה לו אין משהין אותו על גבי האש גזירה שמא יחתה בגחלים. ר"ח ורבינו האיי ורבינו שרירא וכל הגאונים שבעולם התירו לשהות, ור"ש<sup>25</sup> כמו כן. וכן נראה מההיא דאמר רבא לשהות תנינא<sup>26</sup> ומסוגיין דשמעתא, וכל הראיות שמביא הרי"ף לאסור<sup>27</sup> אינם חזקות.

<sup>21</sup> כוונתו להא דשאלו ביומא, פ"ד ב', מרבי יוחנן אהא דשמואל דאמר לא הלכו בפקוח נפש אחר הרוב: והאמר ר' אסי א"ר יוחנן תשעה כותיים וישראל אחד באותה חצר מפקחין, בחצר אחרת אין מפקחין? ושנו: ל"ק הא דפרוש כולהו, הא דפרוש מקצתייהו. ומשמע שר"י ושמואל אינם חולקים. ונראה שהרמ"ך מפרש תירוץ הגמ' כמו שפירש הרמ"ה (עפ"י הכ"מ), ולפי פירוש זה יוצא שר"י ושמואל אינם חולקים. אבל הרמב"ם כתב בתשובה לחכמי לונלי, ששאלוהו אותה הקושיה עצמה ששאל בזה הרמ"ך (הביאה הכ"מ; ועי' תשובות הרמב"ם, סי' ס"א, הוצ' מקיצי נרדמים), שר' יוחנן ושמואל חולקים ואנו ארברי ר"י סמכינן. ולפירוש הגמ' לשיטת הרמב"ם עי' מ"מ וכ"מ.

<sup>22</sup> שבת, י"ט ב'. והמ"מ הביא קושיה זו בשם מי שהקשה. ונראה שהרמ"ך גרס בנמ' שם: לא פליגי דאסור. ועי' בדק"ס שהביא נוסחאות שלא גרסו. דאסור.

<sup>23</sup> אם לגמ' שם הוא מכוון, הנירסא הנכונה היא: והני נמי כמחוסרין דיכה דמו. ונראה שט"ס נפלה כאן.

<sup>24</sup> נראה שצ"ל כאן "וכו'", שכן היא גירסת הרמב"ם עפ"י הדפוסים: וחמין שלא הוחמו כל צרכן או תבשיל שבשל כל צרכו וכל זמן שמצטמק וכו'.

<sup>25</sup> הוא מכוון לרש"י. עי' שבת, ל"ז ב', תר"ה אמר. ושם בתוס' מובאה גם דעת הר"ח.

<sup>26</sup> שבת, ל"ז ב': אמר רבא תרווייהו תננהי לשהות תנינא וכו'.

<sup>27</sup> ריש פ"ג שבת.

[הי"ד]. עושים מדורה לחיה ואפי' בימות החמה אבל אין עושין מדורה לחולה להתחמם בה.

תמה דבריו, וריא"ף ורש"י [ר"ש]<sup>16</sup> לא הלכו בשיטתו דהם סברי דל"ש חולה ולא שנא חיה מחללים, ואולי בשטת התלמוד דכל סבור מינה<sup>17</sup> וסבריה שבתלמוד נדחה חוץ משנים<sup>18</sup> כמו שכתבו המפרשים, וצ"ע.

[הי"ד]. וכן מרחיצין אותו לפני המילה<sup>19</sup> וביום השלישי למילה בחמין שהוחמו בשבת מפני הסכנה.

שמעתי בשם רב אחא כי הוא הדין בשני, וכן נראה מן ההלכה שהסכנה גדולה יותר בשני מן השלישי. וכשאמר הכתוב ויהי ביום השלישי בהיותם כואבים<sup>20</sup> לאו למימר דביום השני לא היו מסוכנים יותר מיום השלישי, אלא הכי רוצה לומר בעוד שהיה להם קצת כאב וחולשא ולא היה כח להם ללחום עם בני יעקב, ולכן עשו עמהם מלחמה ויכלו להם, שאם המתינו יותר לא יוכלו להם. ובשני ימים הראשונים עשו להם אחיזת עינים שהיו עוסקים בקצת רפואות כדי שיבטחו בהם ולא ישלחו בעבור שכניהם.

<sup>16</sup> בשולי הגליון של הכת"י כתוב: ר"ש. אמנם רש"י כתב לדברי הגמ' שבת, קכ"ט א': אמר שמואל הקיז דם ונצטנן וכו', וז"ל: הקיז דם וכל שכן חולה. נמצא שדעת רש"י היא שעושין מדורה לחולה. והרי"ף כתב שם: ואסקינן ל"ש חיה ול"ש חולה ל"ש בימות החמה ול"ש בימות הגשמים. אבל הרמב"ם כנראה לא גרס בגמ' את הדברים: „ולא שנא חיה ול"ש חולה, ל"ש בימות הגשמים ול"ש בימות החמה". ועי' בדק"ס הערה ר' שהביא כתבי יד שונים שם אינם הרברים האלה. וגם נראה שהרמב"ם לא גרס בגמ' „מדאתמר“, אלא: אתמר א"ר חייא בר שמואל הקיז דם ונצטנן וכו'. וכן היא גירסת הגמ' ע"פ המגיד משנה, ועפ"י גירסא זו הוא באר יפה את דעת הרמב"ם. ועי' במ"מ שהביא השגת הראב"ד בזה, שאינה ברפוסים שלנו.

<sup>17</sup> כל' הא דאמרו בשבת, קכ"ט א', לדברי שמואל עושין מדורה לחיה בשבת: סבור מינה לחיה אין לחולה לא, בימות הגשמים אין בימות החמה לא.

<sup>18</sup> איני יודע לאיזו שני מקומות בש"ס הוא מכוון אשר שם נאמר סבור מינה או סבריה שלא נדחה. אולם דבר זה, שבכל מקום שנאמר בש"ס סבור מינה או סבריה נדחה, אינו ברור כל כך, כי בכמה מקומות בש"ס נאמר סבר או סבריה ונתקיים להלכה. ועי' ב"מ, קט"ז ע"ב, שם נאמר: סבר רב אשי למימר, ורש"י (ד"ה כי מטית לשחיטת קדשים) כתב: מרקאמר קסבר רב אשי למימר מכלל דמסקנא לאו הכי הוא. אמנם הרי"ף והרמב"ם פסקו כרב אשי. ולגמ' ב"ב, ב' א': סבריה מאי מחיצה גורא. כתבו בתד"ה סבריה: „אע"ג דלבסוף קאי קאמר סבריה וכו', ועוד אור"י דבפרק קמא דנדרים, דף י"א א', איכא סבריה אע"ג דלבסוף קאי ומסיק הכי". ועי' בספר מקנה אברהם לר"א שיראנו, ח"ב, אות ש"מ, שמביא הרבה מקומות בש"ס שאמרו סבריה, וכן היא ההלכה.

<sup>19</sup> בספרים שלנו הגירסא בדברי הרמב"ם היא: לפני המילה ולאחר המילה וביום השלישי. ואפשר שר"ל לאחר המילה עד יום השלישי והוא הדין בשני. והרמב"ם כתב כמ"כ בפ"ב מהל' מילה ה"ח, ובנוסף זה הביא הרמ"ך את דבריו שם. עי' לעיל, הל' מילה, הערה 60. ובמ"מ הביא בזה השגת הראב"ד שאינה ברפוסים שלנו. ועי' בלח"מ.

<sup>20</sup> בראשית ל"ד, כ"ח.

צרכה ואפי' אמרה אין צריכה אני, ומשלשה ועד שבעה אם אמרה אין צריכה אני אין מחללים, ואם שתקה ואין צריך לומר אם אמרה צריכה אני מחללין.

היקל בזה קולא גדולה, אדדייק מסיפא היה לו למידק מרישא, דאמרה<sup>14</sup> משבעא עד תלתין אם אמרה צריכה אני מחללים עליה את השבת דמשמע טעמא דאמרה צריכה, הא שתקה אין מחללין. ונראה כי הריא"ף הלך בשיטתו<sup>15</sup> ולא נמצא כן בספרים שלנו, וצ"ע.

היא באמת כוונת הרמב"ם, כלומר שלא יעדיפו את הקטנים והנשים בזה. שם כתב עוד נגד הסוברים שאין לעשות מלאכה בפקוח נפש אלא ע"י ההכמים: "וזה טעות גדול ואפשר לבא לירי מכשול גדול, שא"כ אם אין כאן חכמים ימתינו עד שיבואו, ובין כך ובין כך ימות החולה וכו'". וברור שגם הרמב"ם יורה בזה, כי עיקר הוראתו היא לאמר שאם יש שם חכם עליו להיות מן הזרונים בקיום מצות פקוח נפש. ולא כדעת הרמ"א, א"ח שכ"ח סי"א: "ואם אפשר לעשותו ע"י עכו"ם בלא איחור כלל עושין ע"י עכו"ם וכו'".

הבאנו את כל הדעות בפירושי הדינים הללו בכדי להדגיש את החידוש שבשיטת הרמב"ם, כי בדבריו נכלל רעיון יסודי אשר ממנו יש לעמוד על תפיסת הרמב"ם במהות ההלכה והיהדות. בדין פקוח נפש שדוחה שבת בא לירי ביטוי העקרון שהי האדם מהווים הערך העליון שכל ערכי התורה נדחים בפניו. והרמב"ם קבע בזה סולם של ערכים, והמחלל את השבת לחולה שיש בו סכנה הוא מקיים בזה את הערך הנעלה של "וחי בהם ולא שימות בהם", ואין לך מצוה גדולה מזו. ולפיכך על גרולי ישראל וחכמיו להיות זרונים בקיום מצות פקוח נפש ולהורות מתוך כך לעם, שאין משפטי התורה נקמה בעולם אלא רחמים וחסד ושלוש בעולם", כלומר שכל ערכי התורה נדחים בפני הערך העומד ברום המעלה שבסולם הערכים. והרמב"ם הוסיף עוד לאמר: "ואלו האפיקורסים שאומרים שזה חילול שבת ואסור, עליהן הכתוב אומר גם אני נתתי להם חוקים לא טובים ומשפטים לא יחיו בהם". כוונתו היא לאמר, שאלה הטועים וחושבים שמוטב לחלל את השבת לחולה שיש בו סכנה ע"י קטן ועכו"ם, הם לא עמדו על טיבו של ערך החיים שהוא הערך הנעלה מכל שאר הערכים עפ"י יסודי התורה, ועליהם אמר הנביא יהזקאל, כ', כ"ה: וגם אני נתתי להם חוקים לא טובים ומשפטים לא יחיו בהם. כלומר בתפיסתם המוטעת של החוקים האלה ובהנהגתם עפ"י דעה משובעת זו הם עושים את חוקי התורה ללא טובים. והטועים האלה נקראים בשם "אפיקורסים" כי כל מחשבה זרה ודעה מוטעת בתפיסת מהותם של חוקי התורה הנוגעים לעיקרי היהדות נחשבת לאפיקורפות. והוא בהתאם לדברי הרמב"ם, פ"ג הל' תשובה ה"ז, המונה בין המינים אלה הטועים במושג אלהים וחושבים שהבורא הוא בעל גוף ותמונה. ואפילו אם דעה משובעת זו באה להם ע"י "האגדות המשבשות את הדעות" (כלשון הראב"ד שם) דינו כמין. ועי' סנהדרין, צ"ט ב', לבאור המושג "אפיקורוס". ומקור הברייתא שבגמ' יומא הוא בתוספתא שבת פט"ז ושם נוסח הרברים הוא, אלא

מצטרפין דעת ישראל עמהם, ולא כנוסח הרי"ף.

<sup>14</sup> כל' הרישא אמרה. וקושייתו היא למה דייק הרמב"ם מן הסיפא שם נאמר: אמרה לא צריכה אני אין מחללין את השבת, דמשמע אם שתקה מחללין, היה לו לדייק מרישא שם נאמר: אמרה צריכה אני מחללין, דמשמע אם שתקה אין מחללין.

<sup>15</sup> וז"ל הרי"ף שם: שבעה אמרה צריכה אני מחללין עליה את השבת, אמרה איני צריכה אין מחללין עליה את השבת, הא סתמא מחללין.

[ה"ג]. חיה משהתחיל הדם להיות שותת עד שתלד ואחר שתלד עד שלשה ימים מחללים עליה השבת ועושים לה כל

שבת קלה בעיניהם, כל' שלא יבואו לידי דעה מוטעת לאמר שאסור לחלל את השבת אפילו בפקוח נפש אלא שמקלים לחלל את השבת ע"י פטורים ממצוות. ובכדי להורות לעם ששבת רחוקה היא אצל סכנת נפשות, מצוה לגדול בישראל ולחכם להיות מן הזרזים ולעשות מעשה להוראה.

אמנם הרמב"ם לא קבע לדין את דברי הגמ', יומא, שם שאין מחללין את השבת עפ"י דברי נשים וכותים שצריך החולה בדברים אלו. כי שם נשנו בברייתא שתי הלכות שונות: "אין עושין הרברים הללו לא ע"י נכרים ולא ע"י כותים (וגירסת הגר"א: ולא ע"י קטנים) אלא ע"י גדולי ישראל, ואין אומרים יעשו דברים הללו לא ע"פ נשים ולא ע"פ כותים אבל מצטרפין לדעת אחרת". רש"י מפרש את הדין השני שאם האשה או הכותי אומרים שהחולה צריך לדברים אלו דעתם מצטרפת לדעת אחרים לעשות כמותם, אבל לדעתם בלבד אין סומכין. ותוס' שם מפרשים את הדין הראשון, שאם אפשר לעשות את המעשה, שיש בו משום חילול שבת, ע"י נכרי מצוה בישראל שמא יתעצל הנכרי. כלומר, גדולי ישראל פירושם גדולים בשנים; הם באו להוציא נכרי וקטנים הפטורים ממצוות.

ובירושלמי שם פ"ח ה"ה מביא את הדין הראשון בזה"ל: תני כל דבר שהוא בסכנה אין אומר יעשו דברים בעכו"ם ובקטנים אלא אפילו בגדולים בישראל. ונוסח זה שונה מנוסח ההלכה עפ"י הרמב"ם. כי מן הירושלמי נראה שאפשר ומותר לגדולים לעשות את הדברים הללו, ולפי דעת הרמב"ם הם מחוייבים לעשות. ועוד: מנוסח הדברים בירושלמי "אפילו בגדולים בישראל" נראה שפירושו הוא גדולים בשנים; אבל עפ"י דברי הרמב"ם "אלא ע"י גדולי ישראל וחכמיהם" הדברים האלו נעשים ע"י גדולי חכמי ישראל בכדי לשמש מתוך כך דוגמא לעם שילמדו ממעשיהם רעיון יסודי בתורת ישראל שמשפטי התורה הם "רחמים וחסד ושלום בעולם", ומצוה היא לחלל את השבת במקום שיש סכנת נפשות בכדי לקיים, "וחי בהם ולא שימות בהם".

והר"ף בימא הביא את הדין השני באופן אחר לגמרי: "ואין אומרים לעשות דברים הללו לא ע"י נשים ולא ע"י כותים מפני שמצטרפין לדעת אחרת", כלומר מפני שמושפעים הם מדעת אחרים אין לסמוך על דעתם. ולא כנוסח הגמ' "אבל מצטרפין", שפירושו הוא שמצטרפים את דעתם לדעת אחרים האומרים שהחולה צריך בדברים אלו. (ועי' בדק"ש שמביא גירסאות שונות בגמ' יומא). ובר"ן פירש "שהדברים הצריכים לחולה וכו' אין עושין אותן כלל ע"י נכרים והקטנים ואפילו באקראי בעלמא שמא יאמרו הבאים בקושי התיירו פקוח נפש ואין מתירין אותו לכתהלה ע"י המחוייבים במצוות". בדבריו אלה הוא מתקרב לדעת הרמב"ם, כי נראה שהוא סובר שמצוה לעשות את הדברים האלה ע"י המחוייבים במצוות דוקא כדי להורות לעם שפקוח נפש דוחה שבת. אולם מסוף דברי הר"ן נראה ברור שהוא מפרש "גדולי ישראל" להוציא קטנים ונכרים הפטורים מן המצוות, ולא גדולי חכמי ישראל כדעת הרמב"ם, כי הוא נמק את הדין בזה"ל: "שמא יבא הדבר שכשלא ימצאו עכו"ם וקטנים לא ירצו לחלל את השבת וכו'". וכן נראה גם מן הראש' שהוא מפרש גדולי ישראל להוציא קטנים.

ועי' בתשב"ץ, ח"א נ"ד, שגם הוא מפרש "גדולי ישראל" גדולים בשנים, ולא כדעת הרמב"ם גדולים בחכמה. מיהו התשב"ץ הוסיף עוד לאמר: "ובענין זה כל הגדולים שוים בין החכמים בין ע"ה, ומ"מ אם החכם זריו ומתיר לאחרים והוא אינו עושה, אינו עושה יפה, וע"ז אמרו הנשאל ה"ז מגונה" (מקור הדברים האלה הוא בירושלמי יומא שם). וזו



[ה"ז]. המעביר את הקוץ ארבע אמות בר"ה או המכבה את הגחלת כדי שלא יזוקו בהם רבים חייב אעפ"י שאינו צריך לגוף הכיבוי.

היה לו לומר בכאן בד"א בגחלת של עץ אבל בגחלת של מתכת מותר, וזה מפורש בהדיא בגמ' <sup>8</sup>. ותמיהא לן נמי כיון שפסק הלכה כר' יהודה אמאי התיר צידת נחש ומפיס מורסא <sup>9</sup>.

[ה"ח]. [כל המתכוין לעשות מלאכה ונעשה לו מלאכה אחרת שלא נתכוין לה פטור עליה וכו'] כגון שנתכוין לזרוק בכרמלית ועברה האבן בר"ה פטור.

הגהה: אם כדבריו כן הוא שלא נחה האבן במקום שהוא רוצה שתנוח אפי' נתכוין לזרוק לר"ה ועברה האבן אמה אחת יותר פטור דהא לא איתעבידא מחשבתו, והכי היה לו לפרש נתכוין לזרוק בכרמלית ונמצא אותו מקום ר"ה פטור אע"ג דאיתעבידא מחשבתו כיון דלא נתכוין לזריקה דאסורא פטור <sup>10</sup>.

[ה"י]. חפר גומא ואינו צריך לעפרה הרי זה מקלקל ופטור אעפ"י שעשה מלאכה הואיל וכוונתם לקלקל פטורים.

היה לו לומר ה"מ בבית אבל בשדה חייב דהא פסק כר' יהודה דאמר מלאכה שאינה צריכה לגופה חייב עליה. [עין ברי"ף ור"ן ר"פ כלל גדול דלא מחייב ר"י לא . . . והאי מקלקל הוא] <sup>12</sup>.

פרק שני [ה"א, דחווה היא שבת אצל סכנת נפשות כשאר כל המצות וכו'], [ה"ג]. כשעושים דברים הללו אין עושים אותם לא ע"י גויים ולא ע"י קטנים כדי שלא תהא שבת קלה בעיניהם, אלא ע"י גדולי ישראל וחכמים.

הגהה: תימה הוא הטעם שנתן בע"י גויים שלא תהא שבת קלה בעיניהם, וכי אין שבת קלה לגויים, ולדבריו חכם אחד יכול לצוות לגוי שיעשה צרכי חולה שיש בו סכנה. והטעם הברור בעבור שאינם זריזים ואתי למיפשע <sup>13</sup>, וצ"ע מה שכתב.

<sup>8</sup> שם, מ"ב א': והאמר שמואל מכבין גהלים של מתכת ברה"ר בשביל שלא יזוקו רבים אבל לא גחלת של עץ. ובאמת הרמב"ם פסק כן לק' בפ' י"ב ה"ב, אלא שאין מקומו כאן כמו שכתב הכ"מ.

<sup>9</sup> לתירוצו קושיתו זו עי' במ"מ הל' שבת, פ"י הל' י"ז.

<sup>10</sup> עי' בכ"מ ובלח"מ.

<sup>11</sup> כל' בבית מקלקל הוא, אבל בשדה הרי הוא כחורש ומתקן. עי' שבת, ע"ג ב'.

<sup>12</sup> הדברים האלה כתובים בין השורות ובשולי הגליון של הכת"י, וכנראה הוספה מאוחרת היא. ובמקום הנקודות ישנם דברים מטושטשים בכת"י. וז"ל הרי"ף בר"פ שביעי רשבת: ואפילו לרבי יהודה דאמר כל מלאכה שאינה צריכה לגופה חייב עליה ה"מ מתקן אבל האי מקלקל הוא. ועיי"ש בר"ן.

<sup>13</sup> וכ"כ בתר"ה אלא, יומא, פ"ד ב'. והרמב"ם נתן טעם אחד לנכרים, קטנים עבדים ונשים וכלל אותם בהלכה אחת, שאין עושים דברים הללו על ידיהם. כרי שלא תהא

## ספר זמנים: הלכות שבת

**פרק ראשון [ה"ה]. כיצד גורר אדם מטה כסא וספסל וכיוצא בהן בשבת ובלבד שלא יתכוין לעשות חריץ בקרקע בשעת גרירתן.**

נראה כי הוא גורס אבל בגדולים דברי הכל מותר<sup>1</sup>; ולכך לא מפליג בין קטנים לגדולים ומתיר בכל ענין. ולא נהירא לן זו הגירסא, דאם כן מאי מקשי מההיא דגורר אדם מטה כסא וספסל, לימא ליה דההוא כר' שמעון היא דמתיר כל דבר שאין מתכוין ואפי' בגדולים דדמי לפסיק רישיה ולא ימות. ובספרים מדויקים נמצא: מחלוקת בקטנים אבל בגדולים דברי הכל אסור דדמי לפסיק רישיה, וצ"ע.

[ה"ז]. כל העושה מלאכה בשבת אעפ"י שאינו צריך לגופה של מלאכה חייב עליה.

אעפ"י שהריא"ף פסק כן, לא נראה לר"ח ולכל רבותי מפני כמה סתמות דהווי כר' שמעון, כגון צידת נחש ומפס מורסא<sup>2</sup> וההיא דכל המזיקים נהרגין<sup>3</sup> וההיא דבחס על הנר<sup>4</sup> דמוקים לה רבא כר' שמעון ודיקא מתניתין כותיה, והא מדאמרינן בפרק נוטל<sup>5</sup> רבא כר' שמעון סבירא ליה דאמר מלאכה שאינה צריכה לגופה פטור עליה. והרב אלפאסי גופיה הביא הא דר' יוחנן ורבא דאוקמוה לר' יוסי כר' שמעון<sup>6</sup> והוא הביא גם כן האי דאמר שמואל כל פטורי דשבת פטור אבל אסור לבר מהני תלת דפטור ומותר<sup>7</sup> וההיא אולא כר' שמעון. ומאד צריכין תיקון בזה דברי הרי"ף ז"ל, דבחד מקום נראה שפסק כר' יהודה בההיא דמכבין, ובחד מקום פסק כר' שמעון דפטור ומותר.

<sup>1</sup> שבת, כ"ט ב': אימר דאמר ר"ש בגדולים דלא איפשר, בקטנים מי אמר, ופליגא דעולא דאמר עולא מחלוקת בקטנים אבל בגדולים ד"ה מותר. כן היא הגירסא בספרים שלנו, וכן גרס כנראה גם הרמב"ם. ועי' בתוס' שם שכתבו: ולא גרסינן דברי הכל אסור וכו', ולרמ"ך נראה גירסא זו. ובכ"מ הביא דבריו אלה.

<sup>2</sup> שבת, ק"ז א': המפס מורסא בשבת אם לעשות לה פה חייב אם להוציא ממנה לחה פטור וכו', הצד נחש בשבת אם מתעסק בו שלא ישכנו פטור וכו'. והראב"ד השיג כמ"כ על הרמב"ם.

<sup>3</sup> שם, ככ"א ב': א"ר יהושע בן לוי כל המזיקין נהרגין בשבת, מיתבי רב יוסף חמשה נהרגין בשבת וכו' אילמא רבי יהודה הא אמר וכו', אלא לאו רבי שמעון וכו'.

<sup>4</sup> שם, כ"ט ב': כחם על הנר וכו' חייב רבי יוסי פוטר בכולן וכו'. ואמרו שם בנמ' ל"א ב': רבי יוסי כמאן, אי כרבי יהודה וכו' ואי כרבי שמעון וכו'; ורבי יוחנן אמר לעולם כר"ש וכו' אמר רבא דיקא נמי וכו'.

<sup>5</sup> שם, קמ"א ב'.

<sup>6</sup> עי' לעיל הערה <sup>4</sup>.

<sup>7</sup> שבת, ק"ז א'.

הוא פסק כרב אדא דאמר מלין אותו ממה נפשך.<sup>57</sup> ורב אלפס לא פסק כן, ונראין דכרי רב אלפס כמו שכתב הראב"ד.<sup>58</sup> פרק שני [ה"ח]. מרחיצין אותו בשבת בין לפני המילה בין לאחר המילה או בשלישי. צ"ע היאך מרחיצין אותו לפני המילה בחמין שהוחמו בשבת,<sup>59</sup> וצ"ע נמי אמאי אמר שלישי ובגמרא משמע ג' וכ"ש ראשון ושני,<sup>60</sup> וצ"ע.

גירסת הרמ"ך אין הרברים, ושלם הוא, ולפי"ז אפי' כשלא נגמרו שערי וצפרניו מלין אותו ממה נפשך. והטור (יו"ד סי' רס"ו) הקשה על נוסח הרמב"ם שעפ"י הדפוסים וכתב: ויראה מדבריו שר"ל כשנגמרו שערי וצפרניו, ונראה אפי' לא נגמרו שערי וצפרניו שרי ממה מפשך. ועי' לק' הערה <sup>57</sup>.

<sup>57</sup> שבת, קל"ו א'. והרי"ף לא הביא הא דרב אדא בר אבהו דאמר שם מלין אותו ממ"נ. ועי' בר"ן שכתב שהרמב"ם חולק בזה על הרי"ף, כי לדעת הרי"ף אין מוהלין ספקות ממ"נ ולדעת הרמב"ם מוהלין. אבל הב"י שם כתב להוכיח שבגמרו שערו וצפרניו אפי' בידוע שהוא בן ח' מותר למולו בשבת אפי' לדעת הרי"ף, ואין בזה מחלוקה בין הרי"ף והרמב"ם. אולם מאחר שלא גרס הרמ"ך בדברי הרמב"ם, ושלם הוא" (עי' לעיל הערה <sup>56</sup>), משמע שהוא סובר שדעת הרמב"ם היא שאפי' בשלא גמרו שערי וצפרניו מלין אותו ממ"נ, בעוד שלדעת הרי"ף בשלא גמרו אין מוהלין ממ"נ. נמצא שלדעת הר"ן מחלוקת הרי"ף והרמב"ם היא בין גמרו שערו וצפרניו ובין לא גמרו, כמו שכתב הב"י שם, ולדעת הרמ"ך מחלוקתם היא רק בשלא גמרו.

<sup>58</sup> בדפוסים אין השנת הראב"ד להלכה זו. ובדאי היה לרמ"ך מקור אחר לדעת

הראב"ד שהביא בזה.

<sup>59</sup> כמ"כ השיג גם הראב"ד. והרמב"ם בעצמו כתב בתשובה לחכמי לוניל (סי'

ס"ה, הוצ' מקיצי נרדמים), שהרברים, בין בחמין שהוחמו מע"ש בין בחמין שהוחמו בשבת" מוסבים על לאחר המילה מפני הסכנה, אבל לא לפני המילה.

<sup>60</sup> עי' תמים דעים, סי' קע"א, שם מובאים דברי ראב"י אב"ד כדברי הרמ"ך. וכן

גם כתוב שם שלפני המילה אין להלל את השבת ולהכין חמין.

[ה"טז]. כל דבר שהוא מנהג,<sup>51</sup> כגון נטילת ערבה בשביע<sup>52</sup> וקריאת הלל בראשי חדשים ובחולו של פסח אין מברכין עליו.

ת"י<sup>52</sup> מנהגנו לברך על ההלל. וכן נראה מן ההלכה, ומשום הכי סבר רב לאפסוקינהו,<sup>53</sup> דאי בלא ברכה אמאי יפסיק אותם הרי ביכר לכל דמשום מנהג אומרין אותו ולא משום קביעות. ובכמה מקומות מברכין אמנהג כגון שני י"ט של גליות שהוא מנהג אבות כדאמרינן במסכת י"ט<sup>54</sup> הזהרו במנהג אבותיכם, ואעפ"י כן מברכים ומקדשים בו. וחילוק יש בין טילטול לקריאה, דאמנהג דטילטול כמו ערבה לא מברכין אבל אמנהג דקריאה וביום טוב מברכים.

## ה ל כ ו ת מ י ל ה

פרק ראשון [ה"ב]. אבל אינו חייב כרת עד שימות והוא ערל במזיד.

וצ"ע לאחר שימות מאי כרת שייך בו, והלא כרת הוא בחצי ימיו ובחיייו נפרעים ממנו. ת"י<sup>55</sup> ובמותו יהיה נדון בגיהנם אם לא יתודה ויקבל שאם יתרפא ימול עצמו כדכתיב הכרת תכרת וגו'.

[ה"ד]. ספק בן ז' ספק בן ח' נמול בשבת מכל פנים, שאם בן ח' הוא כמחתך בשר הוא ואם בן שבעה בדין הוא דוחה.<sup>56</sup>

<sup>51</sup> ברפוסים כתוב כאן: אע"פ שמנהג נביאים הוא.

<sup>52</sup> נוסח הרפוסים הוא: ואין צריך לאמר מנהג חכמים כגון קריאת הלל וכו'.

<sup>52</sup> א כל' תוספת.

<sup>53</sup> תענית, כ"ח: רב איקלע לבבל חזינהו דקא קרו הלילא בריש ירחא, סבר לאפסוקינהו, כיון רחזנהו דמרדכי אמר ש"מ מנהג אבותיהם בידיהם. ור"ת כתב שם בתוס' כדברי הרמ"ך האלה.

<sup>54</sup> ביצה, ד' ב'. ועי' בהשגת הראב"ד שהשיג כמ"כ על הרמב"ם.

<sup>55</sup> נראה שזהו תירוץ. ועי' בהשגת הראב"ד שהשיג כמ"כ על הרמב"ם, ועי' בכ"מ. ובתוס' מכות, י"ד א', ד"ה לאפוקי, כתבו: דלעולם כל זמן שלא מל עונש כרת עליו. והוא כדעת הראב"ד וכדעת הרמ"ך עפ"י קושיתו. והרמב"ם כנראה מכוון בזה למושג של כרת שנכרת מן העולם ואינו מגיע למדרגה של השארות הנפש. כי לדעתו השארות הנפש והשגחה פרטית הן פרי ותוצאה של השכל הנקנה, כל' ע"י השתדלות האדם בהתפתחות שכלו שנעשה לחלק השכל הפועל הוא מגיע למדרגה זו. (עי' מורה נבוכים, ח"ג, פי"ז י"ח). ורק הצדיק שהוא גם חכם וזכה בהן. וגורל הרשע כגורל שאר מיני בע"ח שהם אובדים ונכרתים מן העולם. ומי שאינו מל במזיד ומת דינו כן.

<sup>56</sup> ברפוסים נוסח דברי הרמב"ם הוא: אם בן שבעה הוא ושלם הוא בדין הוא שידחה שבת וכו', ומשמע דוקא שלם, כל' נגמרו שערי וצפרניו מלין אותו. אבל לפי

וסוכה ולולב ומגלה ונר חנוכה, וכן מצוה שהיא קנין לו כגון ציצית ותפילין ומזוזה ומעקה, וכן מצוה שאינה תדירה כגון מילת בנו ופדיון הבן מברך עליה בשעת עשייה שהחיינו.<sup>45</sup>

ת' נראה מדבריו כי העושה שופר או מצוה או כותב מגלה מברך שהחיינו בשעת עשייה, ואין מנהגו כן. וצ"ע איך הוזכרו אלו הברכות בתלמוד<sup>46</sup> ומה הפרש יש בין סוכה ולולב לשאר מצות. ונראה לומר כי דוקא לולב וסוכה שיש הנאה בעשייתן הן מן הריח הן מן הלחות ובסוכה מן הישיבה והוי כבונה בית חדש שמברכים שהחיינו, אבל בשאר מצות לא מברכין בשעת עשייה, דאם איתא דמברכין, לא לישתמיט תנא וליתני בשאר מצות דמברכים בשעת עשייה שהחיינו, וצ"ע. עוד כתב זה לא נהיר דבמילה אין מברכין שהחיינו.<sup>47</sup> הכי נראה שאין מברכין שהחיינו כי אם במצוה שיש לו הנאה, כגון פדיון הבן דיש לו שמחה כיון דנפק מספק נפל,<sup>48</sup> וכיון דיש לו שמחה ועביד שמחה מברך שהחיינו. אבל במצוה שאין בה שמחה אין מברכים שהחיינו. ומשום הכי אין אומרים שהחיינו בביעור חמץ ובספירת העומר. ובמילה גמי ליכא שמחה משום צערא דינוקא. ומשום הכי בטלו מסעודת המילה שהשמחה במעונו,<sup>49</sup> וצ"ע.

[ה"י]. אבל אינו מברך שהחיינו אלא על מצוה שעושה לעצמו.

נראה מדבריו שהמקדש בבית (אחת) [אחד] להוציא הנשים או הנערים או לצורך החולה אין מברך שהחיינו, ומנהגו לברך. וכן ראוי לעשות, דכיון דחובה היא לאשה לברך אותה ברכה אני אברך אותה בעבורה וחשבין כמי שמברכת היא דשומע כעונה.<sup>50</sup>

<sup>45</sup> ברפוסים הלשון ברברי הרמב"ם שונה קצת.

<sup>46</sup> כל' היכן מצאנו בתלמוד ברכת שהחיינו בעשיית ציצית ותפילין או שופר ומגילה, מלבד עשיית לולב או סוכה (סוכה, מ"ו א').

<sup>47</sup> כן כתבו גם בתוס' סוכה, מ"ו א', ד"ה העושה.

<sup>48</sup> עי' ברוקח סי' ק"ז שמפרש הטעם דאין מברכין שהחיינו על המילה משום שמא נפל הוא, אבל עפ"י הרמ"ך ליכא שמחה משום צערא דינוקא. עי' הגה"מ הל' מילה פ"ג, שמביא טעם זה בשם י"מ. ושם הביא טעמים אחרים להא דאין שהחיינו במילה. אמנם הרמב"ם פסק שם, ה"ג, שאבי הבן מברך שהחיינו.

<sup>49</sup> ועי' כתובות, ח' א', ועי' רוקח שם שכתב: אי גמי כראמר בפ"א דכתובות דלא מברכין שהשמחה במעונו ביום המילה דאיכא צערא, וי"ל משום הכי לא מברכין שהחיינו. והוא כדברי הרמ"ך. והגמ' בכתובות שם: רב חביבא איקלע לבי מהולא ולסעודת מילה. בריך שהשמחה במעונו, ולית הלכתא כוותיה משום דטרידי דאית ליה צערא לינוקא" הוא המקור לשיטת הרמ"ך שאין מברכין ברכת שהחיינו במצות מילה משום אותו הטעם. ודעת הרמב"ם היא שברכת שהחיינו היא על שמחת מצוה, ומשוי' מברכים אותה במילה אע"פ דאיכא צערא דינוקא, משא"כ בברכה "שהשמחה במעונו", שהיא ברכה על שמחה גופנית, ובמקום דאיכא צער אין מברכים אותה.

<sup>50</sup> עי' כ"מ.



והיה דכל המוקדם בפסוק קודם לברכה,<sup>38</sup> בשניהם חביבין מפרשי לה רבותי, ולא רצו לדחות דברי רבים.

פרק תשיעי [ה"ח]. מוגמר שמגמרין בו הכלים והבגדים אין מברכין עליו לפי שלא נעשה להריח בעצמו של מוגמר, וכן המריח בגדים המוגמרים אינו מברך לפי שאין עיקר משם<sup>39</sup> אלא ריח בלא עיקר.

ת' בכאן פסק ריח טוב שאין לו עיקר אין מברכים עליו, ותימה הוא כיון שיש לו הנאה למה לא יברך דהא אסור ליהנות מן העולם בלא ברכה. ואי אמרת משום דלא חשיב ריח כיון שאין לו עיקר, לא היא דהא ריח רע שאין לו עיקר חשיב ריח לגבי ק"ש.<sup>40</sup> והיה דמשחא כבישא<sup>41</sup> מפרשי רבותי אין מברכין עליו בורא עצי בשמים אבל מברך ברוך שנתן ריח טוב בבשמו.

פרק עשירי [ה"א]. הבונה בית חדש והקונה כלים חדשים בין יש לו כיוצא בהן בין אין לו מברך שהחיינו.

ת' בין קנה בין לא קנה היה לו לומר כלישנא בתרא אליבא דר' יוחנן.<sup>42</sup>

[ה"טו]. על ההרים ועל הגבעות ועל המדברות והימים והנהרות אם ראה אחד מהן אחר שלשים יום מברך בא"י עושה בראשית. הרואה את הים הגדול משלשים יום לשלשים יום או יתר מברך בא"י אמ"ה העושה את הים הגדול.

תמה למה פסק כר' יהודה והניח סתם מתניתין<sup>43</sup> דקאמר ועל הימים מילתא פסיקא והיא סתמא, אע"ג דפליג עליה ר' יהודה, כמו מחתכין את הדלועין דפליג עליה ר' יהודה וקרי לה סתמא.<sup>44</sup>

פרק אחד עשר [ה"טז]. כל מצוה שהיא מזמן לזמן כגון שופר

<sup>38</sup> שם, מ"א א': דאמר רב יוסף ואיתימא רבי יצחק כל המוקדם בפסוק זה מוקדם לברכה. ולדעת רש"י ור"י (בתוס' שם) אתיא הא דאמר רב יוסף כרבי יהודה דוקא. אבל לר' שמעיה (בתוס' שם) אתיא הא דרב יוסף אליבא דרבנן וכשאין חביבין זה יותר מזה; והוא כדברי הרמ"ך: בשניהם חביבין מפרש לה רבותי.

<sup>39</sup> גירסת הרפוסים היא: „לפי שאין שם עיקר בושם“, והיא עיקר.

<sup>40</sup> כעין זה הקשה הטור על הרמב"ם. ועי' בכ"מ.

<sup>41</sup> ברכות, מ"ג א': אמר רב אדא בר אבהו האי כשרתא מברכין עלויה בורא עצי בשמים, אבל משחא כבישא לא, כלומר שהשמן מריח מן הבושם שבתוכו ואינו נראה לעינינו אלא השמן.

<sup>42</sup> ברכות, נ"ט ב', שם נאמרו דברי ר' יוחנן בשני לשונות. ועיי"ש בתוס' שכתבו והלכתא כר"י כלישנא בתרא וכו'. ועי' בכ"מ.

<sup>43</sup> שם, נ"ד א'.

<sup>44</sup> משנה שבת, קנ"ג ב', ושם בגמ': ומי אמר רבי יוחנן הכי והא אר"י הלכה כסתם משנה וכו', הרי קרי ליה סתמא ואע"ג דפליג שם רבי יהודה. ועיי"ש בתוס' שכתבו: וסתמא לאו דוקא אלא חשיב כרבים.

מאן תנא דעיקר [אילן]<sup>32</sup> ארעא היא ר' יהודה היא ולא רבנן דהם אמרו מביא ואינו קורא, נמצא דמתניתין סתם יחידאה היא וכסתם יחידאה לא אמרינן, וצ"ע.

[היי"ג]. אעפ"י שטעה בסופה יצא ואין מחזירין אותו.<sup>33</sup>

תי"י<sup>34</sup> בדוחק גדול אתי פירוש ההלכה לפסק שלו<sup>35</sup>; מ"מ מה שהשיב הוא על זה דמוקי ההלכה בשכר של ענבים אינו כלום.<sup>36</sup>

[היי"ג]. היו לפניו מינים הרבה אם ברכותיהן שוות מברך על אחת ופוסט השאר, ואם אין ברכותיהן שוות מברך על כל אחת מהן ברכה הראויה לו ומקדים אי זה מין שירצה, ואם אינו רוצה בזה יותר מזה אם יש ביניהם אחד משבעת המינים עליו הוא מברך תחלה, וכל הקודם בפסוק קודם לברכה ותמרים קודמין לענבים שהתמרים שני לארץ והענבים שלישי לארץ.

תימה למה פסק כר' יהודה והניח רבנן, דהא קיל"ן יחיד ורבים הלכה כרבים.<sup>37</sup>

<sup>32</sup> הוספתי את המלה "אילן" עפ"י הגמ' ברכות, שם.

<sup>33</sup> שיטת הרמב"ם היא, שאם טעה בסוף הברכה, כגון שהיו לפניו פירות הארץ והתחיל הברכה על מנת לאמר בורא פרי האדמה וטעה בסוף ואמר בורא פרי העץ אין מחזירין אותו הואיל, ולא היה בעיקר הברכה טעות (לשון הרמב"ם). והשיג עליו הראב"ד וכתב: שאין הולכין אלא אחר הפירוש שהוציא בפיו. ואפשר להעמיד את מחלוקתם על יסוד רעיון עקרוני זה. לדעת הרמב"ם הכוונה היא העיקר, ומכיון שבטעה שהוציא את השם כגון לאמר בורא פרי האדמה הרי, לא היה בעיקר הברכה טעות. אבל לדעת הראב"ד העיקר הוא הדיבור מה שהוא מוציא בפיו, ומכיון שאמר ב"פ העץ אין כאן ברכה לפירות הארץ. וכן גם בדרש ההלכה עפ"י פסוקי התורה נוטה היה הראב"ד לחפוס את הכתוב כפשוטו, בטעה שלדעת הרמב"ם נדחה פשט הכתוב מפני הכוונה שבו. ולדוגמא ישמשו דברי הראב"ד בפ"ט מהל' גנבה ה"ח: איני נמנע מלכתוב את דעתי שנ"ל שאע"פ שדרשו חכמים אם זרחה עליו השמש דרך משל אם ברור לך הרבר כשמש וכו' אעפ"כ אינו יוצא מידי פשוטו ביום אינו רשאי להרגו שאין גנב בא ביום אלא אם"ו וכו'. הרי קבע בזה הראב"ד הלכה על יסוד פשוטו של כתוב. וכ"ג בפ"ה מהל' רוצח ושמירת נפש ה"ג (ע"י) מה שכתבנו בזה במבוא לחידושי הראב"ד למסכת ב"ק, לונדון, ת"ש. עמ' 28. נמצא שכשם שנחלקו שיטותיהם בדרש ההלכה, אם פשט הכתוב נדחה מפני הכוונה שבו, או להיפך, כן נהלקו גם בענין ברכה, אם הכוונה או הדיבור המוחשי המוצא בפיו האדם הוא העיקר. ויסוד מחלוקתם בשני הענינים האלה אחד הוא, כי בשניהם נוטה היה הראב"ד לקבוע את הדבר המוחש לעיקר, בעוד שדעת הרמב"ם היא שהעיקר תלוי בכוונה שבמחשבה.

<sup>34</sup> כל'י: תימה.

<sup>35</sup> דעתו היא כדעת הראב"ד. ע"י לעיל הערה 33.

<sup>36</sup> כוונתו לתשובה שהשיב הרמב"ם לחכמי לונל (הביאה בעל מגדל עוז) בפ'י הגמ' ברכות, י"ב א', היכא דנקיט כסא דשכרא בידיה וקא סבר דחמרא הוא וכו', שאין הדברים אמורים אלא בשכר היוצא מן הגפן. וע"י במגדל עוז ובלח"מ שרנו בזה בארוכה. <sup>37</sup> משנה ברכות, מ' ב': ר' יהודה אומר אם יש ביניהן מן שבעה עליו הוא מברך, וחכ"א מברך על איזה מהן שירצה.

[הט"ו]. אעפ"י שאין ברכת המזון טעונה יין.

תימה למה פסק דברכה אינה טעונה כוס, דהא לב"ה ולב"ש לתרוייהו ברכה

טעונה כוס.<sup>27</sup>

פרק שמיני [ה"ז]. הפלפלין והזנגביל בזמן שהם רטובים מברך עליהם תחלה בורא פרי האדמה אבל יבשים לא כלום.

תמה הוא כיון דפלפלין מיקרי עץ וחייב בערלה<sup>28</sup> למה אין מברכין ברטובין בורא פרי העץ. ואי משום טעם עצו ופריו שוה,<sup>29</sup> והא אתרוג דטעם עצו ופריו שוה ומברכין עליו בורא פרי העץ. ורב אלפס סתם דבריו ויכלינן למימר שמעץ הפלפלין קאמר כמו זנגביל דהוי עץ וראוי לברך עליו בורא פרי האדמה.<sup>30</sup>

[ה"י]. ברך על פירות האילן בורא פרי האדמה ועל פירות הארץ בורא פרי העץ לא יצא.<sup>31</sup>

ותימה הוא דבגמרא מפורש דיצא אם אמר על פירות האילן בורא פרי האדמה, וכן פסק הר"ף כסתם מתניתין. מ"מ נראה לנו כמו שכתב זה הרב דהא אמר בגמ'

<sup>27</sup> משנה ברכות, נ"א ב': בא להן יין אחר המזון אם אין שם אלא אותו כוס בית שמאי אומרים מברך על היין ואח"כ מברך על המזון וב' אומרים מברך על המזון ואח"כ מברך על היין. ושאלו בגמ' שם, נ"ב א': וסברי ב"ש ברכת המזון טעונה כוס והא תנן בא להם יין אחר המזון וכו', ושנו: דמברך עילוייה ומנח ליה. ומשמע מזה שגם לב"ש ברכת המזון טעונה כוס. ובסוף הסוגיא שם שאמרו: תרי תנאי ואליבא רב"ש, הרי לפי תנא אחד אליבא רב"ש ברכת המזון טעונה יין, וב"ה הרי אמרו מפורש: מברך על המזון ואח"כ מברך על היין. ומכאן אתה למד שלתרוייהו, ברכה טעונה כוס. ועי' בכ"מ, ובהגהות מיימוני השיג ג"כ על הרמב"ם בזה.

<sup>28</sup> כל' מהא דאמרו בגמ' ברכות, ל"ז ב': מיתבי היה ר"מ אומר ממשמע שנאמר וערלתם וכו' ללמך שהפלפלין חייבין בערלה. וכשם שהם נחשבים עץ לענין ערלה כן הוא גם לענין ברכה.

<sup>29</sup> ברכות שם: להביא עץ שטעם עצו ופריו שוה.

<sup>30</sup> ח"ל הר"ף לגמ' שם: פלפלי רטיבתא בורא פרי האדמה ויבשתא ולא כלום. דלאו אוכלא הוא, וכן זנגביל רטיבתא מברך עליה ב"פ האדמה ויבשתא ולא כלום. וכן הוא גם דעת הרמב"ם. ועיי"ש דברי רבנו יונה שכתב שנראה מגמ' דפלפלי רטיבתא מברך ב"פ העץ, ואין דין הזנגביל והפלפלין שוין אלא ביבשתא שאינו מברך כלום. אבל ברטיבתא מברך בפלפלין ב"פ העץ. והיא כדעת הרמ"ך. ועי' בתוס' שם ד"ה ברטיבא.

<sup>31</sup> בדפוסים שלנו הגירסא ברברי הרמב"ם היא: בריך על פירות האילן ב"פ האדמה יצא, ועל פירות האדמה ב"פ העץ לא יצא. ומתוך באורו של הכ"מ בשיטת הרמב"ם, שהוא סובר דמאחר דאמרו בגמ' ברכות, מ' א', מאן תנא דעיקר אילן ארעא וכו' ר' יהודה היא, מתניתין יחידאה היא ולא קי"ל כוותיה, נראה שגם הוא גרס ברברי הרמב"ם כגירסת הרמ"ך. אבל בסוף דבריו כתב הכ"מ: אבל מצאתי נוסחא שכתוב בה בריך על פירות האילן ב"פ האדמה יצא והיא נכונה וכו'. וזו היא גירסת הדפוסים, וכך גם בעל הגהות מיימוני.

פרק ששי [ה"ב]. ומים אחרונים אין מברכין עליהן.

תי' [ת"מה] אבל המברך ברכת המזון יברך עליהם דהא אסמכוה רבנן אקרא כמו מים ראשונים מוהתקדשתם כדאי' בסוף אלו דברים,<sup>22</sup> וכן פסק ר"ת רבנו יעקב ז"ל.

[ה"ז]. נוטל אדם ידיו שחרית ומתנה עליהם כל היום ואינו צריך ליטול לכל אכילה, והוא שלא הסיח דעתו מהם. ודוקא בפקתא דערבות דלית להו מיא,<sup>23</sup> וכן פסקו הגאונים.

פרק שביעי [ה"ה]. הבוצע נותן פרוסה לכל אחד ואחד, והאחר נוטל בידו ואינו נותן ביד האוכל אלא אם כן היה אבל. צ"ע מאין הוציא זה שיהיה אסור הבוצע להושיט ליד האוכל אלא א"כ היה אבל, ומנהגנו להושיט. ויש אומרים כי מפרשה ציון בידה<sup>24</sup> חזי דמשמע דאי יש לה מנחם אין לה לפרוש בידה אבל אחרים פורשין לה.

[ה"ח]. דבר עם חבירו והפליג נוטל שתי ידיו ונכנס. ואם היו מסובין לשתייה נכנס ויושב במקומו ונוטל ידיו.

פר"ש<sup>25</sup> שמא יתן פרוסה לתוך פיו, אבל לשתייה אין צריך נטילת ידיים.<sup>26</sup>

ומשמע מזה שאפי' לא היה האחרון משובח מן הראשון מברך הטוב והמטיב. וכן הוכיחו גם בתוס' פסחים, ק"א א'. אמנם מראשית הסוגיא בירושלמי שם הוכיחו בתוס' פסחים שם וברכות, נ"ט ב', דרוקא כשהאחרון עדיף מן הראשון מברך הטוב והמטיב.

<sup>22</sup> ברכות, נ"ג ב': במתניתא תנא והתקדשתם אלו מים ראשונים והייתם קרושים אלו מים אחרונים וכו', ואין זה אלא אסמכתא בעלמא כמו שהוכיחו בתוס' חולין, ק"ה א', ד"ה מים. ועיי"ש ששאלו: מה בין מים ראשונים לאחרונים? ואומר ר"ת רנפקא מינה לענין מלחמת הרשות רתנן בפ"ק דעירובין דפטורין מרחיצת ידיים וקאמר רבי חייה בגמ' ל"ש אלא מים ראשונים אבל אחרונים לא וכו', ומשמע מזה דלענין ברכה אין נפקא מינה ביניהם. אבל בשם בה"ג כתבו התוס' שם, דהראשונים שהם לשם מצוה טעונים ברכה אבל האחרונים שהם לצורך אדם אינם טעונים ברכה, והוא כשיטת הרמב"ם. והרמ"ך הלך בשיטת הראב"ד שגם הוא השיג על הרמב"ם בזה. אמנם הרמ"ך הוסיף הרברים: „אבל המברך ברכת המזון יברך עליהם“, ונראה שכוונתו לאמר דהואיל ומים אחרונים הם לצורך ברכת המזון שהיא דאורייתא מברך עליהם, כי דינם כמים ראשונים שהם לשם מצוה.

<sup>23</sup> חולין, ק"ו ב', כלו' מקום שאין מים מצויים שם. ולפי"ז דוקא בשעת הדחק מותר לעשות כן. והרמב"ם לא חילק בזה ופסק כדברי הגמ' שם: ואיכא דאמרי אפי' שלא בשעת הדחק. ועי' בכ"מ.

<sup>24</sup> איכה א', י"ז: פרשה ציון בידה אין מנחם לה. והכ"מ כתב לדברי הרמב"ם: באיכה רבתי. וכנראה שהוא מכוון לדברים באיכה רבתי על הפסוק: עוללים שאלו לחם פורש אין להם (איכה ד', ד'). וז"ל שם: ר' יהודה אמר אם אין מי שיתן לחם מי ינחם כמה דאת אמר: ולא יפרסו להם על אבל לנחמו וכו' (ירמיה ט"ז, ז'). ר' נחמיה אמר אין מי שיתן להם פרוסה של לחם וכו'.

<sup>25</sup> הוא מכוון לרש"י שכן כתב מפורש ביומא, ל' א'.

<sup>26</sup> כלו' מברכי הרמב"ם שכתב סתם „היו מסובין לשתייה“, משמע שאפי' לשתייה עצמה נוטל ידיו במקומו ולא בחוץ.

לא הבנתי למה פסק בהפך ממה שמפורש בגמרא,<sup>12</sup> כי לדעת ת"ק הפרפרת דהיינו התבשיל כמו שפירש הוא פטר מעשה קדרה,<sup>13</sup> אבל מעשה קדרה לא חזיא דיפטור פרפרת.<sup>14</sup> ואם פסק כב"ש,<sup>15</sup> אין מעשה קדרה פוטר פרפרת ולא פרפרת מעשה קדרה. ועוד תימה שהוא פירש פרפרת תבשיל ופירות, ואם כדבריו כן הוא, הא אין ברכותיהם שוות עם מעשה קדרה. ופרפרת פירש ר"ח שהיא כעין פת הבאה בכיסניו.<sup>16</sup>

[ה"ט]. היו מסובים לשתות יין ובא להם מין יין אחר, כגון שהיו שותים אדום והביאו שחור, או ישן והביאו חדש אין צריכים לברך ברכת היין פעם שנייה, אבל מברכין הטוב והמטיב.

פירוש והוא דאיכא אחר בהדיה, והכי אוקימנא בפרק הרוואה,<sup>17</sup> ואי ליכא אחר מברך שהחיינו כמו בבשורות טובות. וצ"ע ותימה הוא היכי מברכין הטוב והמטיב כיון שהוא גרוע מן הראשון, כי בודאי חדש גרוע מן הישן והשחור מן הלבן, ואינו נכון לברך עליו הטוב והמטיב.<sup>18</sup> ורבנו אפרים ור"ש<sup>19</sup> כתבו הכי דאיתו ליה לבסוף חמרא (דכחיס) [דכחיש],<sup>20</sup> וכן היו רגילים לפרש רבותי, אבל שמעתי כי הירושלמי מסייע ליה.<sup>21</sup>

<sup>12</sup> ברכות, מ"ב ב'. ועי' בכ"מ שהתקשה ג"כ בפ' דברי הרמב"ם.

<sup>13</sup> כל' מברכי הגמ' שם: „דקאמר ת"ק ברך על הפת פטר את הפרפרת וכ"ש מעשה קדרה", נראה דברך על הפרפרת פטר מעשה קדרה. ועי' בכ"מ שמביא תשובה לר' יהושע מבני בניו של הרמב"ם שכתב שהגירסא הנכונה בדברי הרמב"ם היא: „ואם ברך על התבשיל פטר מעשה קדרה”. אבל הרמ"ך נראה שגרס „לא פטר מעשה קדרה” כבדפוסים שלנו.

<sup>14</sup> ואולי אם נקבל את הגירסא שעפ"י התשובה (עי' לעיל הערה 13) צריך גם לתקן את ראשית דברי הרמב"ם, ובמקום „פטר את התבשיל” צ"ל: ברך על מעשה קדרה לא פטר את התבשיל.

<sup>15</sup> ועי' בפ' המשניות למשנה ברכות, מ"ב, שם כתב הרמב"ם מפורש: ואין הלכה כב"ש.

<sup>16</sup> עי' ברכות, מ"א ב'.

<sup>17</sup> ברכות, נ"ט ב': על שלו הוא אומר ברוך שהחיינו וקיימנו, על שלו ועל של חבריו אומר ברוך הטוב והמטיב, וכל היכא דלית לאחרניא בהדיה לא מברך הטוב והמטיב. ועי' בכ"מ שפי': היינו הטוב לי והמטיב לאחרני. ועי' בתוס' פסחים, ק"א א', ד"ה שינוי שכתבו: ודוקא ביין מברכין לפי שזיבלו כרמיהן ברמיהן של ישראל, והטוב שלא הסריחו והמטיב שניתנו לקבורה.

<sup>18</sup> ועי' בתוס' ברכות שם, ד"ה הטוב, שם הביאו דעת הר"ת דאפי' אין האחרון חשוב רק שלא ישנה לגריעותא יותר מדאי מברך הטוב והמטיב.

<sup>19</sup> הוא מכון לר"ש" או לרשב"ם, כי שניהם פירשו בפסחים, ק"א א', שדווקא היכא שהאחרון משובח מן הראשון מברך הטוב והמטיב.

<sup>20</sup> „דכחיס” שגיאה, וע"כ תקנתי „דכחיש”. ולדעתי המאמר הזה נפסק באמצע וצריך להוסיף כאן הדברים: אינו מברך הטוב והמטיב.

<sup>21</sup> נראה שכונתו היא לירושלמי ברכות, סוף פ"ו: רבי על כל חבית וחבית שהיה פותח היה מברך עליה. ומה היה אומר? ר' יצחק רובה בשם ר' ברוך הטוב והמטיב.



[הי"ט]. כל האוכל דבר האסור בין בזדון בין בשגגה אינו מברך עליו לא בתחלה ולא בסוף.

לא נהיר זה וכי משום שעבר עבירה אחת יעשה שנים שיהנה מן העולם בלא ברכה,<sup>8</sup> ובמשנה לא אמר כי אם אין מזמנים עליו שאין ראוי לקובעו בחובה ולהצטרף עמו,<sup>9</sup> אבל בודאי יברך לעצמו שלא יהנה מן העולם בלא ברכה, וכן פירשו רבותי.

פרק שני [ה"י]. ברכה זו שמוסיפים בבית חתנים היא ברכה אחרונה משבע ברכות של נשואין, בד"א כשהיו האוכלים הם שעמדו בברכת הנשואין ושמעו הברכות, אבל אם היו האוכלים אחרים שלא שמעו ברכת נשואין בשעת נישואין מברכים בשבילם אחר ברכת המזון (שמע) [שבע] ברכות כדרך שמברכים בשעת נישואין, והוא שיהיו עשרה, וחתנים מן המנין.

לפי סוגיית ההלכה ברכות חתנים בסעודה נתקנו וכיון שכן אין נכון שיפטור ברכת נישואין ברכת הסעודה, ומנהגנו לברך ברכת חתנים בתוך הסעודה אע"פ שהיו כל הקהל בשעת נישואין ושמעו ברכת חתנים. ובשבת בשעה שיוצאים מבית הכנסת חוזרים אותם, ולא ידעינן טעמא מאי.<sup>10</sup>

פרק רביעי [ה"א]. כל המברך ברכת המזון או ברכה שמעין שלוש צריך לברך אותה במקום שאכל, ואם אכל כשהוא מהלך יושב במקום שפסק ומברך, אכל כשהוא עומד יושב ומברך, שכח ברכת המזון ונזכר קודם שיתאכל המזון במעיו מברך במקום שנזכר, ואם היה מזיד חוזר למקומו ומברך ואם בירך במקום שנזכר יצא ידי חובתו, וכן אם ברך כשהוא עומד או מהלך יצא. תמה ממעשה דהנהו תרי תלמידי,<sup>10</sup> וממעשה דרבה בר בר חנה<sup>11</sup> נראה שהלכה

כב"ש. וכן פסקו הגאונים רב נחשון ורב עמרם ז"ל.

[ה"ו]. ברך על מעשה קדרה פטר את התבשיל ואם ברך על התבשיל לא פטר מעשה קדרה.

כלכלה דפירי ואכלו ולא משו ידיהו ולא יהבו לי מידי וברוך חר חר לחוריה, ש"מ תלת: ש"מ אין נטילת ידים לפירות, וש"מ אין מזמנין על הפירות, וש"מ שנים שאכלו מצוה ליהלק. ועיי"ש בתד"ה וש"מ.

<sup>8</sup> וכן השיג גם הראב"ד על הרמב"ם. ועיי' בכ"מ ובלח"מ שדנו בארוכה בבאור שיטת הרמב"ם.

<sup>9</sup> כל' הא דאמרו במשנה ברכות, מ"ה א', דאין מזמנין על טבל ועל מעשר ראשון שלא נטלה תרומתו וכיוצא בו.

<sup>10</sup> איני יודע את פי' הדברים. ובכ"מ לא הביא את סוף דבריו.

<sup>11</sup> ברכות, נ"ג ב': הנהו תרי תלמידי חד עביר בשונג כב"ש ואשכח ארנקא דדהבא

וכו'.

<sup>12</sup> ברכות, שם: רבה בב"ח הוה קאזיל בשיירתא אכל ואשתלי ולא בריך אמר היכי אעביר וכו' אמר להו אנטרו לי דאנשאי יונה דדהבא אזיל וברוך ואשכח יונה דדהבא.

## הלכות ברכות

פרק ראשון [ה"ו]. כל הברכות כולם נאמרים בכל לשון, והוא שיאמר כעין שתקנו חכמים, ואם שנה את המטבע הואיל והזכיר אזכרה ומלכות וענין ברכה ואפי' בלשון חול יצא. [תימה בהלכות ק"ש כתב לא יצא, וצ"ע].<sup>1</sup>

[ה"ב]. בד"א בפת ויין בלבד אבל שאר אוכלים ומשקים אין צריכים הסבה אלא אם ברך אחד מהם וענו כולם הרי אלו אוכלים ושותים אעפ"י שלא נתכונו להסב כאחד.

[תימה]<sup>2</sup> אעפ"י שפסק כלישנא קמא<sup>3</sup> נראים דבריו מההיא דפריגות דנתן רשות בר קפרא לאחד מהם לברך<sup>4</sup> ומההיא דכותבות שנתן רשות ר"ג לר' עקיבא לברך<sup>5</sup> ומההיא דאמר ר' דאחד מברך לכולם משום ברוב עם הדרת מלך.<sup>6</sup>

נמצא דלכל דבר שיש בו רוב עם טפי עדיף כשמברך אחד בעבור כולם. וכן דעת רב אלפס שפסק כלישנא קמא וכו' יוחנן דאמר יין בעי הסבה אבל שאר פירות לא בעו הסבה. וההיא דפרק כל הבשר דברך כל חד וחדא לנפשיה<sup>7</sup> מפרשינן ליה דוקא בשנים דליכא רוב עם כפשטא, אבל בשלשה אחד יברך בעבור כולם.

<sup>1</sup> הרבנים האלה כתובים בשולי הגליון של הכת"י. ובכ"מ כתב על דברי הרמ"ך האלה: ויש לתמוה על תמיהתו דברישי הל' ק"ש מיירי ששינה שחתם בברוך או פתח במקום שהתקינו שלא לחתום או שלא לפתוח והכא מיירי ששינה בנוסח הברכה וכו'. ועי' לעיל הל' ק"ש, עמו' כ"א, הערה 1.

<sup>2</sup> המלה, תימה" כתובה מעל השורה בכת"י.

<sup>3</sup> כל' הא דאמרו בברכות, מ"ג א', ללישנא קמא: אמר רב ל"ש אלא פת דבעי הסבה אבל יין לא בעי הסבה ור' יוחנן אמר אפי' יין נמי בעי הסבה. ולפי"ז רק בפת ויין בעי הסבה אבל בשאר דברים אפי' בלא הסבה אחד מברך לכולם. ועי' בכ"מ שהביא תשובת הרמב"ם לחכמי לונזיל שפי' את הנמ' באופן שאין הבדל להלכה בזה בין לישנא קמא ללישנא בתרא. אבל הרמ"ך תפס את דעת הרמב"ם שהוא פסק כלישנא קמא וכנראה לא ידע את תשובת הרמב"ם.

<sup>4</sup> ברכות, ל"ט א'. ועיי"ש בתוס' ד"ה נתן, שכתבו: ומיירי בהסבו ואנו אין לנו שום הסבה אלא על הפת וכו'. אבל מדברי הרמ"ך נראה שפירש הא דבר קפרא שנתן רשות לאחד מהם לברך הוא אפי' בלא הסבה.

<sup>5</sup> ברכות, ל"ז א': ומעשה בר"ג וקנים שהיו מסובין בעלייה ביריחו והביאו לפניהם כותבות ואכלו ונתן ר"ג רשות לר"ע לברך. גם זה מפרש הרמ"ך שאחד מברך לכולם אפי' כשלא הסיבו לאכול יחד.

<sup>6</sup> ברכות, נ"ג א': ת"ר היו יושבין בבית המדרש והביאו אור לפניהם ב"ש אומרים כל אחד מברך לעצמו ובית הלל אומרים אחד מברך לכולן משום שנא' ברוב עם הדרת מלך.

<sup>7</sup> חולין, ק"ו א': אמר רבב"ח הוה קאימנא קמיה דרבי אמי ורבי אסי אייתו לקמיהו

תמה הוא זה דבמסכת ע"ז<sup>75</sup> משמע מהני<sup>76</sup> דאמר ליה אנקלוס לגונדא דרומאי, כי הקב"ה עושה המזוזה לשמור ישראל מבחוץ שנאמר ה' ישמור צאתך ובואך. וכן פירש רבנו שמואל וכל רבותי כי המזוזה משמרת מן המזיקים; ומנהג כותבי מזוזות לכתוב בה שמות. מ"מ יש לדחוק דאנקלוס הוא דאמר להו לאחשובינהו לישראל, אבל לא על דרך האמת.

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<sup>75</sup> ע"ז, י"א א'.

<sup>76</sup> עפ"י נוסח הרברים האלה שבכ"מ צ"ל "מהא" במקום "מהני". ועי' בכ"מ מה שכתב על דברי הרמ"ך האלה. ותמצית דבריו היא שאפילו אם המזוזה מצילה מן המזיקים אין לעשות את תועלת ההצלה לעיקר מטרת המצוה, וכדברי הרמב"ם: שאלו הטפשים לא רי להם שבטלו המצוה אלא שעשו מצוה גדולה שהיא יחוד השם וכו' כאילו היא קמיע של הניית עצמן. ועי' גם במרכבת המשנה להר"א אלפנדארי שהעיר על הגמ' במנחות, ל"ג ב', דאמר ר' חנינא בוא וראה שלא כמדת הקב"ה מדת בשר ודם, מדת בשר ודם מלך יושב מבפנים ועם משמרין אותו מבחוץ, מדת הקב"ה אינו כן עבדיו יושבין מבפנים והוא משמרן מבחוץ, הרי נראה דמזוזה ניתנה לשמירה. וכתב דלעולם עיקר מצות מזוזה הוא לא לשם שימור אלא לשם יחוד שמו של הקב"ה, אבל בזכות המצוה הקב"ה מציל ואת האדם מן הפורעניות, דאי לשמירה בלבד לא היה צריך לשתי הפרשיות וכו'. דברי אלה הם ברוח הרברים של הכ"מ.

[ה"י]. צבור שלא היה בהם אלא אחד יודע לקרות עולה וקורא ויורד וחוזר וקורא שנייה ושלישית. תמה למה הזכיר זאת הברייתא<sup>67</sup> דאינה עיקר כי אם קודם התקנה שאינו מברך כי אם הפותח והחותם, אבל אחר התקנה שמברך הפותח והחותם יש בו היכירא בברכה ואינו צריך לישב, וכן מנהג שקורא הכהן במקום לוי שאינו יושב ועולה כשנים, כי הפסק הברכה הפסק גדול הוא.

## הלכות צצית

פרק שלישי [ה"ט]. נשים ועבדים שרצו להתעטף בצצית מתעטפים בלא ברכה.

תמה כי [רבינו יעקב]<sup>68</sup> ור"ה זרחיה כתבו שמברכות כיון שעושות המצוה כרשות דמצוה היא, וראיותיהם כתובות בספריהם. ויש לנו ראייה מההיא דסוכה דהלנאי המלכא שהיתה יושבת בסוכה לדעת ר' יהודה,<sup>69</sup> נמצא מחלוקת ר' יהודה ור' יוסי<sup>70</sup> לא היה כי אם בברכה דשייך בה בל תוסיף לר' יהודה כמו שפרש בעירובין<sup>71</sup> ובראש השנה<sup>72</sup> ובכמה מקומות, אבל בלא ברכה כיון דמשני לא מקרי בל תוסיף אליבא דבברי הכל. וצ"ע כי יש לפרש הדברים בע"א<sup>72</sup> כמו שפרשו המפרשים אחרים. מ"מ מנהג מקומינו הוא שמברכות הנשים, וכן שמעתי שנהגו בצרפת, ובהלכה רופפת (אחר המנהג הלך) [הלך אחר המנהג].<sup>73</sup>

## הלכות מזוזה<sup>74</sup>

פרק חמישי [ה"ד]. אלו שכותבין במזוזה מבפנים שמות מלאכים או שמות קדושים הרי הם בכלל מי שאין להם חלק לעולם הבא.

<sup>67</sup> תוספתא, מגילה פ"ד. ועי' בכ"מ ובהגהות מיימוניות. ודעת הרמ"ך כדעת הר"ן. <sup>68</sup> „רבינו יעקב” כתוב בשולי הגליון של הכת"י, והוא ר' יעקב חם. עי' בגמ' ר"ה, ל"ג א', בתר"ה הא, שם דנו בארוכה בשיטת הר"ת בזה. ועי' גם עירובין, צ"ו א', תר"ה רילמא.

<sup>69</sup> סוכה, ב' ב'. ועי' בהשנות הראב"ד שהשיג כמ"כ על הרמב"ם בזה. ועי' גם בכ"מ.

<sup>70</sup> כל' מחלוקתם של ר' יהודה ור' יוסי אם נשים סומכות, ר"ה, ל"ג א'.

<sup>71</sup> עירובין, צ"ו א'.

<sup>72</sup> ר"ה, ל"ג א'.

<sup>73</sup> כלומר: בענין אחר. ועי' תוס' עירובין, צ"ו א'.

<sup>74</sup> בכת"י כתוב „אחר המנהג הלך”, אבל מסימני נקודות שעל המלים האלה בכת"י נראה שצ"ל: הלך אחר המנהג.

<sup>74</sup> עפ"י הרפוסים שלנו הל' מזוזה מקומן לפני הל' ציצית.

זהו דעת רב אלפאסי, ואין נראה כן מסוגיית הלכה דשבת.<sup>65</sup> ובכל ארץ צרפת אין מזכירין של ר"ח בשבת.

[הט"ז]. כמה הן קורין בשבת, בשחרית קורין שבעה וביום הכפורים ששה ובימים טובים ה', אין פוחתין מהם אבל מוסיפים. משמע מדבריו שיכול אדם להוסיף אפי' ב"ט, ולא כן פרשו רבותי.<sup>66</sup>

כהנים בלה"ק, כוונת הרברים „כה תברכו" הוא לאמר כצורת הברכה בלשונה המקורית, כלומר בלה"ק. וראיה לזה מראשית הברייתא: „ת"ר כה תברכו בלה"ק, אתה אומר בלה"ק, או אינו וכו' ", הרי בזה כולם מודים שפי' הרברים סוף כל סוף הוא, כה תברכו בלה"ק: הם חולקים רק בזה, שר"י סובר שפירוש זה מוכח מתוך הרברים עצמם, ות"ק סובר שאינו מוכח מתוכם, אלא צריך ראיה והוכחה ממקום אחר, כלומר מג"ש.

לפירושנו לדברי המשנה „ברכת כהנים נקראין ולא מתרגמין", השונה מפירוש הגמ', כדאי להעיר על דברי התוס' יו"ט הידועים, בנויר, פ"ה מ"ה, שכתב לדברי הרמב"ם שפירש את המשנה באופן מיוחד, וז"ל: ואע"פ שבגמ' לא פירשו כן, הואיל ולענין דינא לא נפקא מינה ולא מידי, הרשות נתונה לפרש, שאין אני רואה הפרש בין פירוש המשנה לפירוש המקרא וכו'. וכן כתב גם המהרש"ל בסנהדרין, נ"ב ע"ב, שבאר את פסקו של רב חמא בר טוביה לא כדברי הגמ', וז"ל: ואיני כחולק על התלמוד שהרי אין בו נפקותא לא לחיובא ולא לפטורא וכו'.

אמנם לפירושנו זה יש למצוא סמוכים בירושלמי, ואפשר לפי"ז לבאר גם את הדברים שם הנראים כסותרים את עצמם: „רא"ר חלבו בשם רב חונה ברכות כהנים נקראות ולא מתרגמות, ר' בא בר כהן בעא קומי ר' יוסי מאי טעמא? א"ל כה תברכו לברכה ניתנה לא ניתנה לקריאה". והרי דברי ר' בא ור' יוסי נסמכו לדברי ר' חלבו, ומתשובת ר' יוסי יוצא שאין קוראין ולא ניתנה לקריאה, ור' חלבו הרי אומר „ברכות כהנים נקראות ולא מתרגמות". אבל אפשר שתשובת ר' יוסי היתה רק „כה תברכו", כלומר הואיל ור' יהודה בסוטה מוכיח מכתוב זה, שברכת כהנים נאמרת רק בלה"ק, יש ללמוד מזה שאין ברכות כהנים מתרגמות, משום שע"י התרגום נעקור את תוכן הכתוב ממשו, כי כשהדברים נאמרים בתרגום אי אפשר לפרש „כה תברכו" שכוונתם היא לצורת הלשון המקורית אלא רק לתוכן הדברים. ומעתה נראה שתשובת ר' יוסי היתה במקורה רק „כה תברכו", כלומר לר' יהודה המוכיח מכתוב זה שברכת כהנים נאמרת רק בלה"ק, יש להוכיח ממנו ג"כ שאין מתרגמין, כי הראשון תלוי בשני. ואולי היתה תשובתו: „כה תברכו לברכה ניתנה", ותו לא, כלומר לברכה בלשונה המקורית, ובתקופה מאוחרת הוסיפו את הדברים „ולא לקריאה" בתור באור לחשובת ר' יוסי. ומבאר זה יוצא שברכות כהנים לא נקראין בניגוד לדברי ר' חלבו שאמר: נקראות ולא מתרגמות.

<sup>65</sup> עיי' שבת, כ"ד א', וברשי' שם ע"ב לדברי הגמ': ולית הלכתא ככל הני שמעתתא, ובתד"ה ולית. ועיי' גם בכ"מ. והראב"ד השיג גם על ראשית דברי הרמב"ם שכתב שברכה שנייה חותם בונה ירושלים, והשיג עליו: אנו אומרים משמח ציון בבניה. והרמ"ך לא השיג עליו כלום בזה.

<sup>66</sup> במשנה מגילה, כ"א א': ביו"ט חמשה, ביו"כ ששה, בשבת שבעה; אין פוחתין מהן אבל מוסיפין עליהן. ושנו הדעות בין הראשונים, אם הרברים „אבל מוסיפין עליהן" מוסיבים על כל הדינים שנשנו במשנה או רק על שבת. ועיי' בכ"מ. ודעת הרמ"ך היא כדעת הר"ן הסובר ש„מוסיפין עליהן" נאמרו רק על שבת בלבד.



וכו', וכתוב אחד אומר, למה ר' תעמוד מרחוק, וכיצד יתקיימו שני כתובים הללו? כתוב אחד אומר, כבסי מרעה לבך ירושלים, וכתוב אחד אומר, אם תכבסי בנחר וכו' נחתם עונך לפני; כתוב אחד אומר, שובו בנים שובבים, וכתוב אחד אומר, אם ישוב ולא ישוב; כתוב אחד אומר, דרשו ר' בהמצאו, וכתוב אחד אומר, חי ר' אם אדרש להם; כיצד יתקיימו שני המקראות הללו? ובארו בספרי: כתוב אחד כשישראל עושים רצונו של מקום וכו'; דבר אחר: כתוב אחד עד שלא נחתם גזר דין, וכתוב אחד משנחתם גזר דין; ועוד כהנה. וכמה מן הכתובים האלה אנו קוראים בהפטרות, ולא חשו לסתירה שבין הכתובים. ועוד הרי מצאנו כתוב בתורה, פוקד עון אבות על בנים (שמות כ', ה'), הסותר את הכתוב, לא יומתו אבות על בנים, ובנים לא יומתו על אבות (דברים כ"ד, ט"ו), ובארו בתלמוד: הא כשאוחזין מעשה אבותיהם בידיהם הא כשאין אוחזין מעשה אבותיהם בידיהם (ברכות, ז' ע"א, וסנהדרין, כ"ז ע"ב), וגם אונקלוס בתרגומו באר: "כד משלמין בניא למחטי בתר אבהתהון". ואנו קוראים ומתרגמים את הכתובים האלה מבלי לחשוש לסתירה שביניהם. ועוד, בספרי שם הביא את הפסוק "הנה נשאתי פניך" (בראשית י"ט, כ"א) בתור פירוש לכתוב "ישא ר' פניו אליך", ואת הפסוק "הנה נשאתי פניך" לא מנו במשנה בין הדברים שקוראין ולא מתרגמין, ואע"פ שגם הוא סותר את הכתוב: "אשר לא ישא פנים". ועוד, הרי בברכת כהנים עצמן אומרים: "ישא ר' פניו אליך" ולא חשו לסתירה שבינו ובין הכתוב, "אשר לא ישא פנים", ולמה חשו דוקא לסתירה זו בקריאת התורה שלא יתרגמו. על יסוד כל הקושיים האלה נראה לי להציע טעם אחר לדברי המשנה עפ"י הגירסא, "ברכות כהנים נקראין ולא מתרגמין", ולפי"ז לבאר גם את דברי הירושלמי, "כה תברכו לברכה ניתנו" ומתוך כך ישמשו גם ראייה לדברינו. שנינו בסוטה, פ"ז משנה א', שברכות כהנים נאמרין בלשון הקודש, ובגמ' שם, ל"ח ע"א: "ת"ר כה תברכו בלשון הקודש, אתה אומר בלשון הקודש, או אינו אלא בכל לשון? נאמר כאן כה תברכו ונאמר להלן וכו', רבי יהודה אומר אינו צריך הרי הוא אומר כה עד שיאמרו בלשון הזה". נמצא שלדעת הת"ק אנו למדים דין זה שברכת כהנים בלה"ק מגזירה שוה, ולדעת ר"י יש להוציא דין זה מהכתוב, "כה תברכו". כלומר ר"י מפרש את הדברים "כה תברכו" אשר בתורה שמכוונים הם לא רק לתוכן הברכה אלא גם לצורת הלשון, ופי' המלה "כה" היא לאמר בצורת הברכה שנאמרה בתורה ובלשונה המקורית. נמצא שאם יתרגמו את ברכת כהנים בקריאת התורה לשפה אחרת יהיה בזה משום סירוס כוונת דברי התורה מעיקרם, לפי פירוש ר' יהודה. שכן בפסוק בתרגומו פי' המלה "כה" הוא לאמר תוכן הברכה ולא צורת הלשון, כי אי אפשר לפרש את המלה "כה", שכוונתה היא לצורת הלשון המקורית, כשהדברים נאמרים בלשון אחרת. ובכדי לשמור על טהרת הכוונה המקורית של פירוש המלה "כה", שממנה יתחייב, שברכת כהנים נאמרת רק בלשון הקודש, מוכרחים היו לקבוע את הדין שברכות כהנים נקראין ולא מתרגמין.

פירושנו זה עולה יפה לכאורה רק לפי דברי ר' יהודה המוציא דין זה, שברכות כהנים נאמרין בלה"ק, מהכתוב, "כה תברכו", אבל לדעת הת"ק שבברייתא, המוציא דין זה מגזירה שוה, נאמר כאן כה תברכו ונאמר להלן וכו', "מוכרחים היו בגמ' לתת טעם אחר לדברי המשנה, שברכות כהנים נקראין ולא מתרגמין, והוא משום שנאמר, "לא ישא פנים". אמנם אפשר לאמר שאפי' לת"ק שבברייתא, פי' דברי התורה, "כה תברכו" הוא שמכוונים הם לצורת הלשון של ברכת כהנים, אחרי שהוציאו דין זה מגזירה שוה. הם חולקים על ר' יהודה רק בזה, שלדעתם אין להוציא דין זה, שברכות כהנים בלה"ק, מהדברים "כה תברכו" משום שאפשר לפרשם, שמכוונים הם לתוכן הברכה, וע"כ בקשו מקור אחר לדין זה שמצאוהו בגזירה שוה. אבל אחרי שהוכיחו מגזירה שוה שברכות

וכשנבטל לגמרי דין זה שברכת כהנים היא בשם המפורש והיו משתמשים בכינוי של אדנות, אין לדין זה של "לא נקראין" שום יסוד, שהרי ברכות כהנים עצמן נאמרין בכינוי. ואין טעם של "לברכה ניתנו ולא לקריאה" יסוד חגיגי אלא רק בזמן שברכת כהנים היתה בשם המפורש.

נמצא שיש לקבוע תקופות שונות בהתפתחותה של ברכת כהנים. (א) בראשונה ברכת כהנים היתה נאמרת בשם המפורש ורק במקדש. (ב) וכשנפתח המוסד של בית הכנסת היתה במקדש בשם המפורש, ובגבולים, שם אסור לאמר את השם המפורש, רק בכינוי השם (ספרי שם). (ג) ומשרבו הפריצים, היו מוסרים את השם רק לצנועים שבכהונה, שהיו מבליעים את השם בנעימת אחיהם, כלו' אפי' במקדש לא היו הצנועים שבכהונה משמיעים את השם אלא היו מבליעים אותו, (קידושין שם). (ד) ואח"כ בטלו לגמרי מלהשתמש בשם המפורש, ובמקומו הנהיגו לברך בכינוי השם.

ולפי"ז יש לתת טעם ויסוד לנוסח הברכה הנאמרת ע"י הכהנים לפני ברכתם: אשר קרשנו וכו' לברך את עמו ישראל באהבה, והיא מטבע של ברכה יחידה במינה. והרי זו היא המדרגה הנעלה בקיום כל המצוות לעשותן באהבה, ולמה תיקנו דוקא בברכה זו את הנוסח: "לברך באהבה". אבל נראה שברכה זו נתקנה במקורה כשהיו הכהנים מברכים בשם המפורש, ונוסח הברכה היה: לברך את עמו ישראל בשם המפורש, כלומר ביוד הא וכו', ובפתח תחת היוד וההא. וכשהיו מבליעים את השם בנעימת אחיהם, היו מבליעים גם את השם בברכה שלפני ברכת כהנים עצמן. ובמקום השם המפורש היתה הברתו נשמעת כעין "באהבה", שמבטא דומה למבטא של השם המפורש (האלף וההא שבמלה "אהבה" הברתן דומה להברת היוד וההא בפתח שבשם המפורש). וכנאן גם ראיה שמבטאו של השם המפורש היה בשני פתחים תחת היוד וההא בדומה למבטא של "אהבה". נמצא שנוסח הברכה: "לברך את עמו ישראל באהבה" הוא כתוצאה של התפתחות ההלכה של ברכת כהנים ובסיבת המנהג שהיו נוהגים להבליע את השם בנעימת אחיהם גם בברכה שלפני ברכת הכהנים עצמן, והשם המפורש לא היה נשמע לקהל אלא נדמה להם כאילו שמעו "באהבה", שהברתה דומה להברת השם, וכשנבטל לגמרי המנהג להשתמש בשם המפורש קבעו "באהבה" בברכה משום שהורגלו לשמעה כזאת.

ולגירסת המשנה בבבלי, ברכות כהנים נקראין ולא מתרגמין, שעפ"י גירסא זו קבע הרמב"ם את ההלכה, בארו במגילה, כ"ה ב': מ"ט משום דכתיב ישא. כלו' הכתוב "ישא ד' פניו אליך" נראה כסותר את הכתוב: "אשר לא ישא פנים". והרבה קושיות ברבר; ראשית, לפי טעם זה צריך שיהא הדין שלא נקראין. ועוד הרי בספרי, במדבר נשא, בארו את הכתובים האלה הנראים כסותרים את עצמם, אחד כישראל עושים רצונו של מקום, ואחר כשאין עושים רצונו של מקום. ומוטב לבאר לעם ע"י התרגום את הכתובים, כשם שקוראים ומתרגמים את הכתובים בתורה, שבפשוטם נראים כאילו מגשימים את ד', והתרגום בארם כשיטתו להרחיק כל רעיון של הגשמה. ועפ"י הרמב"ם אנו חייבים ללמד לכל אחד מישראל, אף לנשים ולתינוקות, את האמונה באחדות השם הכרוכה בהרחקת כל הגשמה. ולמה שינו בברכת כהנים להורות שאין מתרגמין בשל הסתירה הנראית בכתובים, והרי מוטב היה לתרגם את הכתובים, ומתוך כך לבאר לעם את מובנם האמיתי. אמנם מעשה ראובן, שנקרא ולא מתרגם, הוא משום שאפשר לתרגמו כפשוטו כתרגום אונקלוס, ואפשר לתרגמו כיונתן בן עוזיאל, ומשום כבודו של ראובן חשו שלא יתרגמו כפשוטו. אבל בברכת כהנים אין ברברי הגמ' משום טעם מספיק לבאר את ברברי המשנה, שקוראין ואין מתרגמין. ועוד, בספרי במדבר שם מנו בקשר עם הסתירה שבכתובים האלה הרבה מקראות הנראים כסותרים את עצמם, כגון: כתוב אחד אומר, קרוב ד' לכל קוראיו

[הט"ו]. וכן אם חל ר"ח להיות בשבת המפטיר בנביא מזכיר ר"ח בברכה זו כדרך שמזכיר בתפלה.

מתרגם, כדי שלא יתרגמו אלהים ממש, "פן יטעו עמי הארץ ויאמרו ממש היה בו" (רש"י שם), או משום כבודו של אהרן, כפירוש הר"ף והרמב"ם בפי' המשניות שם. וכן גם מעשה ראובן (וילך ראובן וישכב את בלהה וכו', בראשית ל"ה, כ"ב) נקרא ולא מתרגם, משום שיש לפרשו כפשוטו ויש לפרשו כתרגום יונתן בן עוזיאל: ובלבל ית מצעא דבלהה וכו' ואתחשיב עילוי כאלו שמש עמה (וכגמ' שבת נ"ה ע"ב: כל האומר ראובן חטא אינו אלא טועה וכו'). אבל בברכת כהנים דאמרו בגמ' מגילה, כ"ה ע"ב, מ"ט משום דכתיב ישא (כלו') ויש בו משום סתירה לפסוק, "אשר לא ישא פנים", עי' ספרי במדבר ו', כ"ו) אין הבדל בזה בין המקור לתרגום, ואין טעם מספיק לאסור את התרגום ולהתיר את קריאת המקור. כוונת קושית הרמ"ך היא איפוא לאמר שאין לגרום במשנה מגילה: ברכת כהנים נקראין ולא מתרגמין, אלא: לא נקראין ולא מתרגמין. ובאמת כן היא הגירסא בתוספתא (הוצ' צוקרמנדל) וגם במשנה שבירושלמי (ועי' הגהות הב"ח).

ונראה שכן גרסו גם בירושלמי מטעם הדין שנתנו שם: "כה תברכו לברכה ניתנה לא ניתנה לקריאה" (מגילה, פ"ד הל' י"א). וז"ל הירושלמי שם: "דא"ר חלבו בשם רב חונה ברכות כהנים נקראות ולא מתרגמות; ר' בא בר כהן בעא קומי ר' יוסי מאי טעמא? א"ל כה תברכו לברכה ניתנה לא ניתנה לקריאה". ונראה שהדברים: "ר' בא בר כהן בעא קומי ר' יוסי מאי טעמא?" מוסבים הם על המשנה שבירושלמי שם נאמר: "ברכת כהנים וכו' לא ניקרין ולא מתרגמין", שהרי מטעם הדין בתשובה לשאלתו: "לברכה ניתנה לא ניתנה לקריאה" יוצא שברכות כהנים לא נקראות. ואי אפשר לאמר שהדברים מוסבים על דברי ר' חלבא שלפניהם, שהרי מתשובת ר' יוסי מתחייב שאין קוראין, ור' חלבא אמר בשם רב הונא: ברכות כהנים נקראות ולא מתרגמות. אמנם אם הדברים של ר' בא ור' יוסי נשנו על דברי ר' חלבא שנאמרו לפניהם, מוכרחים אנו לתקן את הגירסא בדברי ר' חלבא ולהוסיף את המלה "לא", כלומר ברכת כהנים לא נקראות, כי סוף הדברים: "לברכה ניתנה ולא ניתנה לקריאה" מוכיח על תהלתם. ועי' גם בפירוש הרידב"ז לירושלמי שכתב: "לפי הגירסא שבמשנה לא נקראין גבי ברכת כהנים, הא ע"כ משום גזירת הכתוב כה תברכו לברכה ניתנה ולא לקריאה כדמסיק". הרי גם הרידב"ז מפרש את הדברים, "ולא לקריאה" שפירושם הוא כפשוטם שאין קוראין. אמנם מפ' רבנו חננאל, מגילה, כ"ה ע"א, נראה ברור שהוא הסמיך את דברי ר' בא ור' יוסי לדברי המשנה שבירושלמי: לא נקראין. וז"ל הר"ח שם: "ירושלמי לא נקראין, ר' בא בעא מר' יוסי מ"ט? א"ל כה תברכו לברכה ניתנה ולא לקריאה".

אולם ב"ארחות חיים", ח"א, הלכות קריאת ס"ת, דף כ"ה, כתוב בבאור הירושלמי: "לברכה ניתנו ולא לקריאה, פי' לקריאה כהלכתו בתרגום". הוא מבאר איפוא את שאלת ר' בא ותשובת ר' יוסי שהן נאמרו ביחס לדברי ר' חלבא שנשנו לפניו ומפרש את הדברים, "ולא לקריאה" כלו' לקריאה בתרגום, ואע"פ שאינו משמע כן מפ' הדברים כפשוטם. ולטעם הדין עפ"י גירסת המשנה שבירושלמי ובתוספתא (הוצ' צוקרמנדל) שברכות כהנים אין קוראין ואין מתרגמין אפשר שהוא משום שברכת כהנים היתה במקורה בשם המפורש, כמבואר בספרי במדבר נשא, ואסור היה לקרות בשם המפורש בבית הכנסת. ולפי"ז אפשר לפרש את דברי הירושלמי "לברכה ניתנו", כלו' לברכה בשם המפורש, "ולא לקריאה" משום שאסור להוציא את השם המפורש מלבר לכהנים בברכה. אמנם כשנמנעו מלהשתמש בשם המפורש והיו מבליעין את השם בנעימת אחיהם (קידושין, ע"א א')

[הכ"א]. בתים וחצרות שהעם מתכנסין<sup>60</sup> בהם לתפלה אין בהם קדושה.

תמה למה לא הביא בתי כנסיות שבבבל על תנאי הם עשויות וכו',<sup>61</sup> וצ"ע.

פרק שנים עשר [ה"ג]. ולא יקראו פחות מ' פסוקים.

פי' חוץ מפרשת עמלק שאין בה כי אם ט' פסוקים וקורים אותה בפורים ומפרש

טעמא בירושלמי משום דסליק ענינא.<sup>62</sup> וצ"ע למה לא הזכיר זה.

[ה"ה]. כל אחד מן הקורין פותח ס"ת ומביט במקום שקורא

בו ואח"כ אומר ברכו את ה' המבורך [וכו'] וכשישלים לקרות גולל הספר ומברך לאמר.

צ"ע למה צריך לגלול בברכה אחרונה יותר מברכה ראשונה כיון דפסקין

כר' יהודה<sup>63</sup> דלא אתי למימר ברכה כתובה בתורה אפי' בברכה אחרונה אין צריך

לגלול הספר דליכא חשדה דס"ת.

[ה"ט]. כיון שהתחיל הקורא לקרות [אסור] אפי' לספר

בדבר הלכה אלא הכל שומעין ושותקין.

בעל הלכות מפרש דאי איכא עשרה (תורה)<sup>63</sup> דשמעי ס"ת שפיר דמי.

[הי"ב]. מעשה ראובן וברכת כהנים נקראין ולא מתרגמין.

תמה למה הזכיר ברכת כהנים דהא אין תרגום לברכת כהנים כלל.<sup>64</sup>

<sup>60</sup> ברפוסים כתוב ברמב"ם, "מתכבצין".

<sup>61</sup> מגילה, כ"ח ב': א"ר אסי בתי כנסיות שבבבל על תנאי הן עשוין וכו', כלו' ע"מ שישתמשו בהם. ועי' בתר"ה בתי, שכתבו: ודווקא לאותן שבבבל מהני התנאי שהרי לעת בא גואל במהרה בימינו תפקע קדושתן, אבל לאותן שבארץ ישראל לא מהני תנאי שהרי קדושתן לעולם קיימת. ואולי לזה כוון גם הרמ"ך בהשגתו לאמר למה לא הבחין הרמב"ם בין בבל לא"י.

<sup>62</sup> ירושלמי מגילה, פ"ד ה"ב: קומי רבי יונה הרי פרשת עמלק? א"ל שנייא היא שהיא סדרה של יום. כלו' פ' ויבא עמלק שקורין בפורים אע"פ שאין בה כי אם ט' פסוקים הוא משום שיש בו סדר של יום, ואינו ברין שיקראו במה שאינו סדרו של יום כדי להשלים עשרה פסוקים.

<sup>63</sup> מגילה, ל"ב א': פותח ורואה גולל ומברך וחוזר ופותח וקורא דברי ר"מ, רבי יהודה אומר פותח ורואה ומברך וקורא, מ"ט דר"מ וכו' כדי שלא יאמרו ברכות כתובות בתורה וכו'. ולטעם הרמב"ם שפסק כר"י ואעפ"כ כתב שצריך לגלול בברכה אחרונה, עי' בכ"מ.

<sup>64</sup> נראה שצריך למחוק את המלה "תורה". ואולי צ"ל בדבריו: עשרה דשמעי

תורה.

בית הכנסת מקדושתה,<sup>53</sup> ואפי' הכי קא מבעיא ליה אם צריך עילוי, ומסיק דאסור למוכרו כי אם ללמוד תורה ולישא אשה. וכי אמר חלופה וזבונה שרי בעבור תיבה או מטפחות אמר.<sup>54</sup> לא נהיר זה שיכול אדם להוציא בית הכנסת לחולין לגמרי ולא הדמים משני פנים קאמר, כי עדיין לא הגענו לאותה פסקא<sup>55</sup> שמדברת על יציאת הבית לחולין. ועוד כי לא יתכן למיכל ביה ואפי' למישתי ביה שכרא ויותר דבר נבזה מזה יכול הקונה לעשות בה בית התבן בית הבקר בית המשכב ומותר להשתין בו מים, והיה לו לומר אפי' לעשותו בורסקי מותר. ולכן נראה כי אין הפי' כי אם על הדמים.<sup>56</sup> וההיא דרבינא קלה לפרש.<sup>57</sup>

[ה"ח]. וכן אם התנו שבעה טובי העיר במעמד אנשי העיר על מותר הדמים שיהו חולין הרי אלו חולין.

לא נהיר דאפי' על הדמים יכולים להתנות דהא יכולים ליתנה במתנה כיון דאין הדמים בעולם כ"ש שיכולים למוכרה ולעשות מן הדמים צרכי (רבים)<sup>58</sup> העיר; וכשאומרה הבריתא<sup>59</sup> מכרו והותרו במכירת שבעה טובי העיר רבותא אשמעינן דאפי' במותר הדמים אם ירצה להוציאם לחולין צריכין שבעה טובי העיר, אבל אם ירצו הכל לחולין (צריכין) [יכולין]<sup>60</sup> להוציא.

<sup>53</sup> בשולי הגליון של הכת"י נוסף כאן: מפרש רבנו אפרים ז"ל שצריך להעלות הדמים כמו בספר תורה דהישן אינו יוצא מקדושתו ואפי' הכי וכו'.

<sup>54</sup> כל' הא דאמר רבא שם, כ"ו ב': האי בי כנישתא חלופה וזבונה שרי, היינו לקנות בדמים תיבה או מטפחת שמעלה בקדושה.

<sup>55</sup> כל' במשנה ראשונה של פ"ד דמגילה, דף כ"ה ב', לא דנו אלא בדיון זה שמעלין בקודש, לאמר שקונים בדמים דבר שקדושתו עולה על הראשון, אבל לא דנו ביציאת הבית לחולין עד המשנה ג' שם, כ"ז ב'; אין מוכרין ביהכ"נ אלא על תנאי וכו' וחכ"א מוכרין אותו ממכר עולם חוץ מד' דברים למרהץ ולבורסקי וכו'.

<sup>56</sup> הא דאמר רבא שם, כ"ו א'; לא שנו אלא שלא מכרו שבעה טובי העיר במעמד אנשי העיר, אבל מכרו שבעה טובי העיר במעמד אנשי העיר אפי' למישתא ביה שכרא שפיר דמי, אין פירושו לשתות שכר באותו הבית שהיה לפנים בית הכנסת, אלא שמוציאין את הדמים לשתית שכר.

<sup>57</sup> בגמ' שם, כ"ו ב': רבינא הוה ליה ההוא תילא דבי כנישתא אתא לקמיה דרב אשי א"ל מהו למיזרעה, א"ל זיל זבניה משבעה טובי העיר במעמד אנשי העיר וזרעה. ומה שכתב "קלה לפרשה" אולי כוונתו לאמר כמו שפי' בעל כ"מ לפי דעת הראב"ד, שרינא דרבינא לא נאמר אלא בתל הרב אבל לא להלל בית הכנסת. ועי' בכ"מ שמביא השגת הראב"ד שאינה ברפוסים שלנו, וז"ל: וכתב הראב"ד אין זה מחזור שיוכלו להתנות על ד' דברים אלו ואם אמרו שיכולים להתנות עליה לזרעה, והוא תל הרב, לא אמרו להלל הבית שהוא לתפילה להיות בורסקי וכיוצא בו עכ"ל. והשגת הרמ"ך עולה בד בבד עם השגת הראב"ד עפי' הכ"מ.

<sup>58</sup> כנראה שצריך למחוק המלה "רבים".

<sup>59</sup> מגילה, כ"ז א': איתיביה אביי בד"א שלא התנו וכו' לעולם שמכרו והותרו וה"ק

בר"א שלא התנו שבעה טובי העיר במעמד אנשי העיר וכו'.

<sup>60</sup> מעל המלה "צריכין" כתוב בכת"י "יכולין".



פרק אחד עשר [הט"ו]. וכן אם גבו מן העם מעות לבנות בית המדרש או בית הכנסת או תיבה או מטפחות ותיק או ס"ת ורצו לשנות כל שגבו אין משנים אלא מקדושה קלה לקדושה חמורה. תימה אמאי אין משנים הדמים הא הו כטורי ליארג דליכא מאן דאמר.<sup>45</sup> ואפי' בלכנים אמרינן בתחלת הפרק דלית בהו שום קדושה<sup>46</sup> וכ"ש כשגבו מעות. וההיא דגבו והותירו<sup>47</sup> על כרחין יש לנו לפרש בע"א<sup>48</sup> או שנאמר דלאו הלכתא היא, וצ"ע. [הי"ז]. בני הכפר שרצו למכור בית הכניסה שלהם או לבנות בית הכנסת אחר בדמיה או תיבה או תורה צריכין להתנות על הלוקח שלא יעשנו מרחץ ובורסקי, ואם התנו שבעה טובי העיר וכו', וכן אם התנו שבעה טובי העיר במעמד אנשי העיר על מותר הדמים שיהו חולים הרי אלו חולין.

משמע מדברים אלו שיוכל אדם למכור בית הכנסת ולהוציאו מקדושתו ואין צריך להעלות הדמים כי אם שוה בשוק.<sup>49</sup> וכן<sup>50</sup> נראה מגמרא שלנו מתרי אנפי, חדא דקתני<sup>51</sup> בית הכנסת לוקחין תיבה שמעלין הדמים ורישא ודאי דוקא, ועוד הא דקא בעי בגמרא<sup>52</sup> מהו למכור ספר תורה ישן ליקח בו חדש וכו' עד כיון דליכא לעלווי שפיר דמי, משמע הא כל דבר שיכול לעלות מצוה לעלות משום מעלין בקדש ואפי'

<sup>45</sup> לשון הגמ' במגילה, כ"ו ב': אבל הכא כטורי לאריג דמי וליכא מאן דאמר וכו' (וליכא למ"ד בכי האי גוונא דהזמנה מילתא היא, רש"י).  
<sup>46</sup> מגילה, שם: ליבני נמי חלופניהו וחבונניהו שרי אוזופניהו אסור, הני מילי בעתיקתא אבל בחדתא לית לן בה וכו'.

<sup>47</sup> כל' הא דאמר רבא, מגילה, כ"ז א', ל"ש אלא שמכרו והותירו אבל גבו והותירו מותר; ומשמע מזה דאין משנים הדמים שנבי אלא המותר בלבד, ומכאן ראייה להרמב"ם, נגר דעת הרמ"ך הסובר שאין בדמים שום קדושה ואפשר לשנות לדבר אחר. ושיטת הרמב"ם נראה שהוא מבחין בענין זה שני דינים שונים. ראשית הא דאמרו במשנה מגילה, כ"ו א', מכור תורה לא יקחו ספרים, ספרים לא יקחו מטפחות וכו', משום שמעלין בקדש ולא מורדין. ושנית כשגבו מעות לבנין בית הכנסת או לקנות תשמישי קדושה אין משנין אותן אלא מקדושה קלה לחמורה לא משום דין הזמנה אלא משום שהואיל וגבו את הדמים למטרה ידועה הרי הוא כאילו התנו ביניהם שלא ישנו ולא יהיו מורדין בקדש. ומאחר שדין זה («אם גבו העם מעות וכו'») אין יסודו בהזמנה אלא בתנאי, אין להקשות על הרמב"ם כמו שהקשה הרמ"ך מגמ' מגילה, שם משמע דאפי' בלכנים לית בהו שום קדושה וכ"ש כשגבו מעות.

<sup>48</sup> כל': בענין אחר.

<sup>49</sup> אין צריך להעלות הדמים, כל' אינו מחויב להעלות בקדושה ולקנות בדמים דבר קדוש ביותר. והדברים, כי אם שוה בשוק" אינם מובנים לי, ואולי כוונתם לאמר שקונה בהם כל דבר בשוק כפי שוים. כל' הוא משיג על דברי הרמב"ם שכתב: ואם התנו שבעה טובי העיר במעמד אנשי העיר בשעת מכירה שיהא הלוקח מותר לעשות בו כל אלו (כל' מרחץ ובורסקי וכיוצא בו) מותר.

<sup>50</sup> נראה שצ"ל: ואין.

<sup>52</sup> שם, כ"ז א'.

<sup>51</sup> ראשית המשנה פ"ד דמגילה.

**פרק עשירי [ה"ז].** מי שטעה והתפלל חול של שבת יצא.<sup>40</sup> תמה הוא היכי פסק יצא דהא תניא בהדיא בפרק במה מדליקין<sup>41</sup> ימים שיש בהן קרבן מוסף אם לא הזכיר קדושת היום מחזירין אותו אפי' בר"ח ובחולו של מועד, וכל שכן בשבת שלא יצא ומחזירין אותו. [ה"ט]. מי ששכח שאלה מברכת השנים וכו' אם לא הזכיר עד שהשלים תפלתו חוזר ומתפלל שניה.

ודוקא ביחיד אבל בצבור אינו חוזר דהא שומעה משליח צבור. וכן נראה מן ההלכה דקאמר אידי ואידי ביחיד<sup>42</sup> ולא מוקי לה בשום ענין בצבור, וכן פרשו רבותי. [ה"י]. טעה ולא הזכיר יעלה ויבוא וכו' אם נזכר אחר שהשלים תפלתו חוזר לראש.

ופי' החכם ר' אשר נראין דבריו דוקא ביחיד אבל בצבור כיון ששומע משליח צבור אינו צריך לחזור.

[ה"טז]. ואם התחיל להתפלל קודם שליח צבור והגיע שליח צבור לקדושה לא יפסיק ולא יענה קדושה צמחה; וכן לא יענה אמן יהא שמה מברך והוא באמצע תפלה, ואין צ"ל בשאר הברכות.

תמה הוא מאי זה ברכות קאמר; אי מברכות ק"ש הא קילי מתפלה, דשואל מפני היראה ומשיב מפני הכבוד, מה שאין כן בתפלה;<sup>43</sup> אי מברכת המצות וברכת הפירות, הא הוו כברכות דק"ש, דיוצר אור הוי כברכת הפירות שהיא ברכת הנאה ואהבה רבה היא כברכת המצות, כגון אמן יהא שמה רבא מברך וקידוש. ואיפשר לומר כי מברכות ראשונות של ק"ש קאמר, וצ"ע.

מוסף ישנה אפי' ביחיד, מוכח כדעת רב האי גאון שמוטב להתפלל תפילת יחיד בבהמ"ד מלהתפלל תפילת צבור בביה"כ. וז"ל הכ"מ: ורבני צרפת מפרשים דטפי עדיף להתפלל בבית המדרש ביחיד מבביה"כ בעשרה וכתב הרמ"ך שכ"כ רבינו. וצ"ל: רבינו האי.<sup>40</sup> בדפוסים שלנו הגירסא ברמב"ם היא: לא יצא. ועי' בכ"מ שדן בשאלה זו, אם לגרוס "יצא" או "לא יצא". אבל הרמ"ך גרס: יצא.<sup>41</sup> שבת, כ"ד א'. ועי' גם בכ"מ שהביא ראיה מגמ' זו שאין לגרוס בדברי הרמב"ם "יצא".

<sup>42</sup> ברכות, כ"ט א': ל"ק הא ביחיד הא בצבור, בצבור מ"ט לא משום דשמעיה מש"צ וכו', אלא אידי ואידי ביחיד וכו'.

<sup>43</sup> עי' ברכות, פ"ב מ"א, ועי' לעיל עמוד כב מה שכתב הרמ"ך לדברי הרמב"ם פ"ב מהל' ק"ש, הל' ט"ז, ובהערה 9, 10.

<sup>44</sup> נראה שצ"ל כאן: ש"ע, כל' ברכות ראשונות של תפילה, שחמורות הן משאר ברכות התפילה. ועי' בכ"מ שכתב: ואין צ"ל בשאר ברכות הכוונה בו אצ"ל בג' ראשונות ונ' אחרונות דלא יפסיק דכברכה אחת חשיבי וכו'. ואם נגרוס בדברי הרמ"ך כהצעתו, שמונה עשרה או "תפילה" במקום "ק"ש", דברי הכ"מ עולים בקנה אחד עם דברי הרמ"ך. וברור שט"ם הוא ברמ"ך, כי מה פי' הרברים: "ברכות ראשונות של ק"ש" ככתוב לפנינו, והרי הוא בעצמו כתב לעיל שברכות ק"ש קילי מתפילה לענין הפסק.

[ה"ח]. ביום הכפורים ותשעה באב שאין שם רחיצה אינו מברך על נטילת ידים ולא המעביר שינה.

תמה הוא ביום הכפורים וט' באב למה אין שם רחיצה, והלא התירו לשומרי פירות לעבור עד צוארם במים,<sup>35</sup> כ"ש שיש לנו להתיר בשביל מצות נטילת ידים ולקבל מלכות שמים שלימה צריך ליטול ידיו; ועוד כי היו ידיו מלוכלכות בטיט ובצאה דאינו רשאי ליגע באחד מאיבריו, דהא אמרינן יד לפה תקצץ.<sup>36</sup> וההיא דמטפחת להקר,<sup>37</sup> מפרשי לה רבותי. וכן נראה. וההיא דגזרו עליו להאכיל בשתי ידיו<sup>38</sup> מסייע ליה דמ"ה גזרו עליו דכלאו הכי היה חייב ליטול לק"ש ולתפלה.

פרק שמיני [ה"ג]. בית המדרש גדול מבית הכנסת וכו', והוא שיתפלל שם תפלת צבור.

רבינו האיי הגאון לא כן פירש שיהא צריך להתפלל שם תפלת הצבור. ונראין דבריו מההיא דתפלת השחר<sup>39</sup> דמייתי ההיא דר' אמי ורבי אסי לסיוע שתפלת המוסף ישנה בין בחבר עיר כן שלא בחבר עיר.

לא שמע קול התרנגול, דאין ברכה זו אלא להבחנה על הנאת האורה, ומ"מ כתבו שאינו מברך מלביש ערומים אלא כשהנה. ויפה הבחין הטור (סי' מ"ו ס"א) בזה וכתב: וכל הברכות שהן על סדור העולם והנהגתו כגון אלוה נשמה והנותן לשכוי וכו' אין לחסר מהם אפי' לא שמע קול התרנגול וכו', אבל אותם שהם על הנאותיו לא יברך אם לא נהנה כגון ששוכב על מטתו ואינו לא לובש ולא אזור וכו' אין לו לברך. (ולדעת הגאונים שמביא הרמ"ך בזה, עי' ב"י שם ובר"ן פ"א פסחים). ומעניין להביא בזה את דברי הרמב"ם בפ"י המשניות, להא דאמרו במשה מגילה, כ"ד א', סומא פורס על שמע, ר"י אומר כל שלא ראה מאורות מימיו אינו פורס על שמע, וז"ל: ואין הלכה כרבי יהודה וכו', שאע"פ שלא נהנה מאורם שיראה, נהנה מפעולתם בעולם ר"ל הפעולות הבאים מאורם בעוה"ז.<sup>35</sup> יומא, ע"ז ב'.

<sup>36</sup> שבת, ק"ח ב'. וכדברי הרמ"ך כתב גם ר"ת ביומא, ע"ז ב', תד"ה משום, וז"ל: ור"ת מפרש דבלא נתינת פת לתינוק מותר ליטול ידיו שחרית ביה"כ דלא גרע ממלוכלכות בטיט ובצואה דאמרינן שרוחץ כדרכו ואינו חושש, ואין לך מלוכלך בטיט ובצואה יותר מזה שלא נטל ידיו שחרית שאינו רשאי ליגע לפיו ולחוטמו ולאוניו ולעיניו וכו'.

<sup>37</sup> כוונתו להא דאמרו ביומא, ע"ח א': מטפחת היה לו בערב יוה"כ ושורה אותה במים ועושה אותה כמין כלים נגובין ולמחר מקנח בה פניו ידיו ורגליו וכו'. והוקשה לרמ"ך דאם מותר ליטול את ידיו ביה"כ, למה לו להכין מטפחת שרויה במים בערב יום הכפורים. ועוד אפשר שהוקשה לו למה לו לנגבה בעיוה"כ, אם נטילת ידים מותרת ביו"כ. אולם זה שהצריכוהו לעשותה כמין כלים נגובין הוא משום כדי שלא יבוא לידי איסור סחיטה ולא משום איסור נטילת ידים. ואולי לזה כוון הרמ"ך באמרו: מפרשי לה רבותי.

<sup>38</sup> כלו' הא דאמרו ביומא, ע"ז ב': תנא דבי מנשה רשב"ג אומר מדיחה אשה ידה אחת במים (ביה"כ) ונותנת פת לתינוק ואינה חוששת אמרו עליו על שמאי הזקן שלא רצה להאכיל בידו אחת וגזרו עליו להאכיל בשתי ידים, מפרש הרמ"ך דמשום הכי גזרו עליו דבלא"ה היה חייב ליטול לק"ש ולתפלה.

<sup>39</sup> ברכות, ל' ב': רבי אמי ורבי אסי אע"ג דהוו להו תליסר בי כנישתא בטבריא לא הוו מצלי אלא ביני עמורי היכא דהוו גרסי. ומכיון שהביאו זה בנמ' לראיה שתפילת

[הי"א]. היו לפניו שתי תפלות של מנחה ושל מוספין מתפלל של מנחה ואח"כ של מוספין. ויש מי שהורה שאין עושין כן בציבור כדי שלא יטעו.

הגה ה: וכן מנהגנו בי"ה שלאחר שהגיע זמן המנחה אינו מתפלל תפלת מוסף קודם תפלת מנחה, מ"מ לדעת זה הרב אין לנו לאחר תפלת מוסף כל כך דהא פושע קרי ליה<sup>29</sup> מי שמאחר אותה עד שבעה שעות.

פרק רביעי [ה"ג]. בד"א שאינו מטהר לתפלה אלא ידיו בלבד בשאר תפלות חוץ מתפלת שחרית. אבל בשחרית רוחץ פניו ידיו ורגליו ואח"כ יתפלל.

צ"ע מאין הוציא זה שיהא צריך לרחוץ ידיו,<sup>30</sup> ובהיה קורא<sup>31</sup> גרסינן הרוצה לקבל מלכות שמים שלימה יפנה ונוטל את ידיו ועליו הכתוב אומר ארחץ בנקיון כפי, אלמא דאינו צריך אלא רחיצת ידיו. ויש או' משום כל פעל ה' למענהו כדמשמע במסכת שבת.<sup>32</sup>

פרק חמישי [ה"ד]. ונותן עיניו למטה.

כנגד ארץ ישראל דכתיב והיו עיני ולבי שם כל הימים.<sup>33</sup>

פרק שביעי [ה"ה]. לן בכסותו אינו מברך כשעומד מלביש ערומים, הלך יחף אינו מברך שעשה לי כל צרכי.

לא כן פרשו הגאונים, ודעת הגאונים לכרך בכל ענין משום שמזכיר מעשה בראשית ומשבח הקב"ה על כל הטובות שעושה לעולם ברוב רחמיו וחסדיו.<sup>34</sup>

(פ"ז מתפילה הי"ז). ועי' בתוס' ברכות, ד' ב', שהביאו מסדר רב עמרם שפי' מה שאנו אומרים קדיש בין גאולה לתפלת ערבית לאשמעינן דלא בעינן מסמך גאולה דערבית לתפילה משום דתפלת ערבית רשות, והוא כלשון הרמב"ם שכתב: לפי שתפילת ערבית רשות אין מרקדין בזמנה. והר"ל גינצבורג, פירושים וחדושים בירושלמי, ח"א עמ' 68, הוכיח גם שחכמי הירושלמי נוטים היו לדעה שאין סמיכות גאולה לתפילה בערבית, ולטעם הדבר עיי"ש עמ' 74.

<sup>29</sup> עי' לעיל דברי הרמ"ך להלכה ה'. ובכ"מ שם תמה על השנת הרמ"ך, כי יסוד דברי הרמב"ם הוא בנמ'.

<sup>30</sup> צריך להוסיף כאן: פניו ורגליו.

<sup>31</sup> ברכות, י"ד ב': ואמר ר"י הרוצה שיקבל עליו עול מלכות שמים שלמה יפנה וישול ידיו וכו' דכתיב ארחץ בנקיון כפי.

<sup>32</sup> שבת, ג' ב': רוחץ אדם פניו ידיו ורגליו בכל יום בשביל קונו משום שנ' כל פעל ה' למענהו. ועיי"ש פי' רש"י שמפרש את הדברים לא לתפילה. והראב"ד השיג כמ"כ וכתב: לא ידעתי רגליו למה. וכתב הכ"מ שיסוד דברי הרמב"ם הוא בנמ' שבת שם, אבל לא בשם הרמ"ך.

<sup>33</sup> מלכים א', ט', ג'. והמקור הוא ביבמות, ק"ה ב': המתפלל צריך שיתן עיניו למטה שנ' והיו עיני ולבי שם כל הימים. ובכת"י שלנו כתוב בשולי הגליון: במסכת יבמות פרק מצות חליצה מפרש נותן עיניו למטה כנגד ארץ ישראל וכו'.

<sup>34</sup> עי' בתוס' ברכות, ס' ב', שכתבו שמברך ברוך שנתן לשכוי בינה להבחין, אפי'

## ה ל כ ו ת ת פ ל ה

פרק ראשון [ה"ט]. ג' ראשונות וג' אחרונות אין מוסיפין בהם ולא פותחין ואין משנין בהן דבר.

פ' לצרכי יחיד אבל לצרכי רבים מותר כמו שאנו אומרים זכרנו באבות. וכן כתב הר' יצחק נ' גיא.

[ה"י]. [אין הציבור מתפללין תפלת נדבה], לפי שאין הציבור (קריבים)<sup>23</sup> מביאין קרבן נדבה.

תמה הוא זה דהא אמרינן מותרות לנדבת צבור אזלי<sup>24</sup> דאלמא מקריב צבור נדבה.

פרק שלישי [ה"ה]. והמתפלל מוסף אחר שבע שעות אע"פ שפשע יצא.

לא ידעתי למה קורא אותו פושע, ומנהגנו ביום הכפורים להתפלל אחר שבע.<sup>25</sup> מ"מ מנהגנו אינו מדוקדק דשליח צבור מאריך בג' ראשונות בקרובות ובסליחות ואינו אומר תפלת השחר עד אחר חצות. וכיון שהוא חוזר התפלה לפטור מי שאינו בקי היה לו לאומרה תוך ד' שעות כדי לפוטרו בעונת תפלה, ואעפ"י שהתחיל התפלה תוך הזמן לא עשה כהוגן כשגומרה אחר זמן שהרי תמיד של שחר היה כולו קרב בתוך ד' שעות, וצ"ע.

[ה"ז]. ויש לו להתפלל תפלת ערבית של לילי שבת בע"ש קודם<sup>26</sup> השמש וכן מתפלל ערבית של מוצאי שבת בשבת, לפי שתפלת רשות אין מדקדקין בזמנה והוא שיקרא ק"ש בעונתה אחר צאת הכוכבים.

רבתי היו רגילין לפרש דוקא לדבר מצוה צלי של שבת בע"ש<sup>27</sup> דקילין אי זהו בן הע"ה זה הסומך גאולה של ערבית לתפלה של ערבית,<sup>28</sup> וכן כתב ר"ח, וצ"ע.

<sup>23</sup> צריך למחוק 'קריבים'. וכן כתוב ברמב"ם: שאין הציבור מביאין קרבן נדבה. <sup>24</sup> כוונתו להא דאמרו במשנה שקלים ריש פ"ד: מותר תרומה לקיץ המזבח, כלו' במותר תרומת הלשכה מביאים עולות נדבה. וקיץ פירושו כשהמזבח בטל מקרבנות. ולזה כוון גם הראב"ד בהשגתו שכתב: מצונו קרבן נדבה בצבור והיא עולה הבאה מן המותר שהיא קיץ מובח אלא שלא היתה מצויה וכו'. ופ' דבריו האחרונים הוא, שקיץ מובח לא היה מצוי אלא לעתים רחוקות, שכן עפ"י רוב לא היה המזבח בטל מקרבנות. ועי' בב"י סק"ח.

<sup>25</sup> עד כאן מובא בכ"מ.

<sup>26</sup> צריך להוסיף כאן המלה 'שתשקע'. ודברי הרמב"ם שהביא בזה שונים קצת בלשונם מנוסח הרפוסים שלנו.

<sup>27</sup> כלשון הגמ' ברכות, כ"ז ב': רב צלי של שבת בע"ש.

<sup>28</sup> כמ"כ השיג גם הראב"ד. אבל הרמב"ם נראה שסבר שאין סמיכות גאולה לתפילה בערבית עיקר, ואע"פ שהוא פסק שלכתחילה מוטב לסמוך גאולה לתפילה אפי' בערבית



[ה"א]. היתה נטישת צואה על בסרו<sup>15</sup> או ידיו מטונפות<sup>16</sup> מבית הכסא ולא היה להם ריח רע כלל מפני קטנן או יבשותן מותר לקרות לפי שאין להם ריח.

צ"ע אם מטונפות ידיו מבית הכסא איך מותר לקרות והוא פסק בסמוך בדבוקה אסור כ"ש דבוקה בידו. וצואה על בשרו פירשה הר' זרחיה שהיא במקום הסתרים שאינה נראית.<sup>17</sup> ובספרים שלנו<sup>18</sup> כתוב או שהיו ידיו בבית הכסא.

[ה"ב]. ריח רע שיש לו עיקר מרחיק ד' אמות וקורא אם פסק הריח, ואם לא פסק מרחיק עד מקום שפוסק.

רב אלפס פסק מרחיק ד' אמות ממקום שפוסק הריח, ונראין דבריו דהא בהדיא תניא כותיה דרב חסדא,<sup>19</sup> וכמו כן פסק רב האי. ונראה כי דעת<sup>20</sup> הזה היה לפרש לית הלכתא כהא מתניתא מכל הבריות קאמר, ואזל ליה תניא כותיה דרב חסדא, והדרינן לכללא דרב הונא ורב חסדא הלכתא כרב הונא דהוא רביה דרב חסדא. [הט"ז]. אפי' גוי או קטן לא יקרא כנגד ערותו.

כתבו הגאונים דערות קטן לא מקריא ערוה,<sup>21</sup> וכן מנהגנו שהמהל אוזז בערות הקטן ומברך ואינו מכסה אותה.<sup>22</sup>

פרק רביעי [ה"א]. [חתן שנשא בתולה פטור מק"ש וכו']. ואם שהה עד מוצאי שבת ולא בעל חייב לקרות ממוצאי שבת ואילך שהרי נתקררה דעתו ולבו גם בה אעפ"י שלא בעל. יפה פירש אע"פ שלא היו רגילין כך לפרש רבותי.

<sup>15</sup> ט"ס הוא, וצ"ל בשרו.

<sup>16</sup> הרמב"ם גרס במחלוקת ר"ה ור"ח, ברכות, כ"ה א': או ידיו מטונפות מבית הכסא, וכן גרס גם הר"ף; והקשה עליהם הרא"ש: דהיכי שרי ליה ר"ה כיון שהצואה נראה, ואם מיירי ביבשה אפילו הכי אסור דאמרין צואה כחרס אסורה. וכן פסק גם הרמב"ם לעיל ה"ו. וזהו גם פירוש קושיתו של הרמ"ך על הרמב"ם. אבל בגרפס הגירסא היא: או ידיו מונחת בבית הכסא. וכן גרס רש"י ושאר הראשונים. ועי' בדק"ס.

<sup>17</sup> כן פי' גם רבנו יונה, עי' בלח"מ. ועי' גם ברא"ש שהביא פי' זה.

<sup>18</sup> כנראה שהוא מכוון לגירסת הגמ' שם (עי' לעיל הערה <sup>16</sup>), ואולי הוא מכוון לגירסת ספרי הרמב"ם שהיו לפניו.

<sup>19</sup> ברכות, כ"ה א'.

<sup>20</sup> צ"ל: לדעת, ואולי צ"ל דעת הרב, כלו' לדעת הרמב"ם שפסק כרב הונא, אע"פ שאמרו בגמ' תניא כותיה דר"ח, צריך לפרש דהא דאמר רבא שם בהמשך הכוונא: לית הלכתא כהא מתניתא, מוסב הוא על כל הדברים שנשנו שם בביריחא. והראב"ד השיג על הרמב"ם שפסק כר"ה, ופי' הא דאמר רבא לית הלכתא כהא מתניתא לאו אהא אמרה אלא על שאר הדברים.

<sup>21</sup> וכן משמע גם מדברי רש"י במגילה, כ"ד ב', שכתב: גדול פוחח הוא דאסור (לקרא בתורה) משום ולא יראה כך ערות דבר אבל קטן אינו מוזהר וכו'.

<sup>22</sup> עי' ברא"ש לברכות, כ"ה ב', שמבחין בין המל את הגר, שצריך לכסות ערותו בשעת הברכה, ובין המל את הקטן שאינו צריך.

אבל בין ויאמר לאמת ויציב הרי הוא באמצע הפרק ולא יפסיק אלא לשאול מפני היראה ולהשיב מפני הכבוד.

ונראה לפרש לא יפסיק כלל דהוה ליה כפסוק ראשון שהוא כמו מלכות שמים.<sup>11</sup> פרק שלישי [ה"ב]. וכל מי שקרא במקום שאין קורין חוזר וקורא.

צ"ע מאין הוציא זה דאם קרא בצד המת שיחזור ויקרא, כיון דאינו אסור אלא משום לועג לרש<sup>12</sup> למה יחזור ויקרא.

[ה"ו]. צואת אדם וכלבים וחזירים שיש בתוכן עורות אסור לקרות ק"ש כנגדן.

צ"ע למה כתב צואת אדם דהא בברייתא<sup>13</sup> לא אמר אלא צואת כלבים וחזירים אבל צואת אדם לא בעינן נתן לתוכה עורות כדמוכחא כולה שמעתא. בירושלמי תני צואת חמור כשבא מן הדרך.<sup>14</sup>

[ה"ז]. מי רגלים (שנפל) שנבלעו בקרקע אם רשומם ניכר אסור לקרות כנגדן.<sup>15</sup>

צ"ע זה, דהא פסק כרבא מי רגלים כל זמן שמטפיחין.

את סוף הפסקא בירושלמי כפתרון לשאלה ששאלו שם. ועי' דברי הר"ל גינצבורג, פירושים וחדושים בירושלמי, ח"א עמ' 249, שכתב: "השאלה, אם מותר להפסיק גם באמצע הפסוק לא נפתרה, ובפסקא, רבי ירמיה וכו', מתחיל ענין חדש וכו'. אמנם הרמ"ך וחכמי התוס' תפסו כנראה את הפסקא, ר' ירמיה וכו', כפתרון לשאלה. ופירושו כך הוא: ר' ירמיה מדמי (הגירסא העיקרית היא מרמו, וכן גרס הרשב"א) כלו' הוא לא היה מפסיק באמצע הפסוק כדיבור אלא ברמו בלבד; ר' יונה משתעי, כלו' הוא היה מפסיק אפי' כדיבור: ר"ה אמר ודברת בס וכו', כלו' "בם" פירושו אפי' באמצע הפסוק.

<sup>11</sup> וכן פסק גם הר"י, הביאו הטור סי' ס"ו.

<sup>12</sup> ברכות, י"ח א'. וכמו כן השיג גם הראב"ד על הרמב"ם, אלא שלא הזכיר בהשגתו את הטעם שלא יקרא בצד המת שהוא משום לועג לרש כמו שנראה מגמ' שם. אבל כן פירשו בעל מגדל עוז והכ"מ את דעתו של הראב"ד. והכ"מ סמך בפירושו זה על דברי הרמ"ך.

<sup>13</sup> ברייתא בברכות, כ"ה א'. והרמב"ם קבע בזה להלכה את לשון הברייתא. אבל נראה ברור שהדברים, בזמן שנתן עורות לתוכן מוסבים הם אבבות אחרונות ולא אבבא ראשונה (ועי' רש"י שם), וגם דעת הרמב"ם, כנראה, כן היא. ועי' כ"מ.

<sup>14</sup> וז"ל הירושלמי ברכות, פ"ג ה"ה: רבי יוסי בר חנינא אמר מרחיקין מגלילי בהמה ד"א, רבי שמואל בר רב יצחק אמר ברכים ובלבד בשל חמור, ר' חייא בר אבא אמר בבא מן הדרך. ומהשגת הראב"ד שהשיג למה לא סמך הרמב"ם על הירושלמי להזכיר בזה גם מי רגלים של חמור שאסור לקרות כנגדן, נראה שהוא גרס בירושלמי "מי רגלים" במקום "מגלילי". עי' בכ"מ שעמד על שינוי הנוסחאות שבירושלמי, והרמ"ך לא גרס כהראב"ד, וגם בתוס' ברכות, כ"ה א', ד"ה לית, גרסו בירושלמי כבגרפס. ולדברי הירושלמי האלה, עי' בפירושים וחדושים בירושלמי למהר"ל גינצבורג ח"ב, עמ' 291.

<sup>15</sup> בגרפס נוסח רב רבי הרמב"ם הוא: אם היו מרטיבין היר אסור לקרות כנגדן, והוא כרבא (ברכות, כ"ה א'), אבל הרמ"ך גרס בדברי הרמב"ם, "אם רשומם ניכר", וע"כ הקשה עליו. ועי' בכ"מ שכתב: ודע שבקצת ספרי רבינו כתוב במקום כ"ז שמטפיחים כ"ז שרישומן ניכר וט"ס הוא שהוא היפך מסקנא דרבא. ומטפיחים היינו אם היו מרטיבין היר.

ממטבע ברכת הגומל (ומני מן)<sup>4</sup> שינה מטבע ברכת הזן ואעפ"י כן יצאו. וה"ר זרחיה פסק כי המשנה מן המטבע יצא.

**פרק שני [ה"ג].** היה ישן מצערין אותו ומנערין אותו עד שיקרא פסוק ראשון מכאן ואילך אם אנסתו שינה אין מצערין אותו. פ"י להיות ניצור יפה, ואם קרא אותה כמתנמנם יצא, אבל אם לא יקרא כלל לא יצא, כדאמר מר זוטרא<sup>5</sup> ע"כ מצות כונה מכאן ואילך מצות קריאה. והלכה כדבריו דהא אוקימנא בריש פירקין<sup>6</sup> מאי כיון לבו לקרות וההיא כמר זוטרא אזלא. ואפי' אפרשת צצית מצוה להזכיר משום דכתיב למען תזכור דהא קיל"ן כר' אלעזר בן עזריא דאמר צריך להזכיר ואפי' בלילה,<sup>7</sup> וצ"ע הרב איך סתם דבריו ולא כתב כל הצורך. [הט"ז]. אבל מי שהוא חייב בכבודו כגון אביו או רבו אם נתן לו שלום פוסק באמצע הפרק ומשיב לו שלום.

פ"י ואפי' באמצע (הפרק)<sup>8</sup> הפסוק. אבל באמצע פסוק ראשון לא יפסיק כמו בתפלה,<sup>9</sup> וכן מפורש בירושלמי,<sup>10</sup>

<sup>4</sup> שניאה היא וצ"ל: ובנימין. וכוונתו לדברי הגמ' שם, מ' ב': בנימין רעיא כרך ריפתא ואמר בריך מריה דהאי פיתא. והרמב"ם לא הביא להלכה את דברי הגמ' האלה וגם לא את דברי הגמ' נ"ד ב'. ועי' רמב"ם הל' ברכות, פ"א ה"ג, שפסק שאין עונין אמן אחרי המברך ששינה ממטבע הברכה. ונראה שהרמב"ם סובר שברכה שלא לפי המטבע היא ברכה אישית ופרטית, ואין המברך יוצא בה אלא רק בתנאים מיוחדים, כגון במרוד או באינו יודע את הברכה בצורתה המתוקנת. והא דרב יהודה ששינו רבנן ממטבע על ברכת הגומל הוא משום שברכת הגומל היא במהותה ברכה אישית ופרטית, כי אינה ברכה שנתקנה לציבור ואין מברכים אותה אלא רק במקרים מיוחדים. ומשום טעם זה אין עונים אמן על ברכה שלא לפי המטבע, כי עניית אמן הרי היא כקריאת הברכה עצמה רק כשהברכה נאמרה בצורתה המתוקנת. אבל ברכה אישית ופרטית אין לדון אותה כאילו נאמרה ע"י הציבור בעניית אמן, כי בצורה זו לא נתקנה בשביל הציבור.

<sup>5</sup> ברכות, י"ג ב'.

<sup>6</sup> שם, י"ג א': ש"מ מצוות צריכות כוונה, מאי אם כוון לבו לקרות וכו'.

<sup>7</sup> משנה שם, י"ב ב'.

<sup>8</sup> נראה שצריך למחוק המלה "הפרק", שכן כוונתו היא לאמר, שיכול להפסיק אפי' באמצע הפסוק, מלבד פסוק ראשון שאינו מפסיק. ומקור דין זה שאינו מפסיק בפסוק ראשון של ק"ש הוא בתשובת רב האי גאון. עי' אוצר הגאונים לברכות, חלק הפירושים, עמ' 12.

<sup>9</sup> עי' תוס' יומא, י"ט ב', ד"ה במ, שכתבו: נראה לי במ שואל מפני היראה ומשיב מפני הכבוד ולא בתפלה דאמרינן אפי' מלך שואל בשלומי לא ישיבנו אפי' נחש כרוך על עקיבו לא יפסיק. וכן כתבו גם בתוס' ברכות, י"ג א'. ד"ה ובאמצע.

<sup>10</sup> ו"ל הירושלמי ברכות, פ"ב סוף ה"א: עד כרון באמצע הפרשה ואפילו באמצע הפסוק? ר' ירמיה מרמי, ר' יונה משתעי, ר' הונה רב יוסף ודברת במיכן שיש לך רשות לדבר במ. ומדברי הרמ"ך שסומך את פסקו, שמותר להפסיק אפי' באמצע הפסוק, על דברי הירושלמי האלה, משמע שהוא מפרש את כל הפסקא שדנה היא בענין אחר, והדברים "ודברת במ מיכן" וכו' באו לפתור את השאלה שמותר להפסיק באמצע הפסוק. וכן נראה גם מדברי התוס', ברכות, י"ג א', ד"ה היה, שכתבו: ובירושלמי קאמר אפי' באמצע הפסוק רב הונא בשם רב יוסף אמר ודברת במ מיכן שיש לך רשות לדבר במ. הרי הם תפסו

## ספר אהבה: הלכות קריאת שמע

**פרק ראשון [ה"ז].** ברכות אלו עם שאר כל הברכות הערוכות בפי כל ישראל עזרא ובית דינו תקנום ואין אדם רשאי לפחות מהם ולא להוסיף עליהן.

נראה לדעת זה הרב דאסור לומר פיוטין בברכות של ק"ש, וצ"ע.  
[ה"ז]. כללו של דבר כל המשנה ממטבע שטבעו חכמים בברכות הרי זה טועה וחוזר ומברך כמטבע.

ולא נהיר זה מעוכדא דההוא רציא דאמר בריך מארי דהאי פיתא<sup>2</sup> וגם מההוא דאמר דיהבך לן ולא יהבך לעפרא ופטרו אותו מלהודות,<sup>3</sup> ואע"פ ששינה

<sup>1</sup> שאלה זו, אם מותר להוסיף פיוטים בברכות, תלויה לכאורה בפי' המשנה, ברכות, י"א א': בשחר מברך שתים לפניו ואחת לאחריה וכו' אחת ארוכה ואחת קצרה מקום שאמרו להאריך אינו רשאי לקצר, לקצר אינו רשאי להאריך וכו'. ואם נפרש שהדברים מקום שאמרו להאריך וכו' מוסבים על אחת ארוכה ואחת קצרה יתחייב שאסור להוסיף על הברכות של ק"ש או לקצרן. ועי' בפי' רבנו יונה לרי"ף שכתב: ומה שאמר מקום שנהגו להאריך אינו רשאי לקצר אינו חוזר לראש אלא מילתא באפי נפשה היא וכו'. אבל בתוספתא ברכות, פ"א שנינו: למה אמרו אחת קצרה מקום שאמרו להאריך אינו רשאי לקצר וכו', הרי נראה מזה שהבבא, מקום שאמרו להאריך מוסבת על דברי המשנה אחת ארוכה ואחת קצרה. ועי' בתר"ה אחת, ברכות שם, שכתבו: פעמים שמאריכין הרבה בתוספת כמו אור יום הנץ, והביאו את פי' ר"ת: אחת ארוכה ואחת קצרה, כל' בין יאריך בה בין יקצר בה. והתוספתא לכאורה סותרת את פי' ר"ת. ועי' שבלי הלקט ועניין תפלה סי' כ"ח, י"ד ע"א) מה שמביא בשם ר"ת שכתב ליישב את התוספתא עפ"י פירושו הוא. וראה גם תוספת ראשונים לר"ש ליברמן, ח"א, עמ' 10.

אמנם בפי' המשניות למשנתנו כתב הרמב"ם: ונקראת ברכת יוצר ארוכה ואהבת עולם קצרה מפני שכל ברכה שיש בתחילתה ברוך ובסופה ברוך נקראת ארוכה ושאינה כן נקראת קצרה ופי' אינו רשאי אין לו רשות, כל' לא היא מותר לו לעשות וכו'. מפירושו זה יוצא שאינו רשאי להוסיף ברוך או לקצר ברוך, אבל לא שאינו רשאי להוסיף פיוטים באמצע הברכה. וכן הוכיח גם הכ"מ מדברי הרמב"ם האלה. והטור פסק שאין להפסיק בברכות שמע לומר פיוטים, וכן הביא גם בשם הרמ"ה, והוא כדברי הרמ"ך לדעת הרמב"ם. ועי' עוד בכ"מ שכתב על דברי הרמב"ם, וכל שאינו אומר אמת ויציב בשחרית ואמת ואמונה בערבית לא יצא ידי חובתו, ח"ל: וכתבו ההגהות בשם הרמ"ך דלא יצא י"ח היינו שלא יצא ידי חובת ברכה זו אבל ידי חובת ק"ש יצא אפילו לא אמר הברכות כלל וכו'. והדברים האלה אינם בכת"י שלנו. ולעיקר השאלה אם מותר לשנות ממטבע שטבעו חכמים בברכות ואם מוסיפין פיוטים באבות וגבורות ושאר התפלות, עי' אוצר הגאונים לברכות חלק התשובות, עמ' 70, שם נחלקו הגאונים בזה.

<sup>2</sup> ברכות, מ' ב'.

<sup>3</sup> שם, נ"ד ב': רב יהודה חלש ואחפח על לגביה רב חנה בגדתא ורבנן אמרי ליה בריך רחמנא דיהבך ניהלן ולא יהבך לעפרא אמר להו פטרתון יתי מלאודיי.

פרק עשירי [ה"ג וה"ד]. ומותר למכור להם בתים ושדות [בחוץ לארץ] ואין מוכרין להם פירות ותבואה וכיוצא בהם במחובר לקרקע וכו'.

הרב אלפאסי פסק כר' מאיר דאמר אין מוכר לו אלא קצוצה<sup>82</sup> משום דסתם מתניתין כותיה דאמר אין מוכרים להן בהמה גסה,<sup>83</sup> ותקני מילתא פסיקתא דאפי' ע"מ לשחוט אסור דגזרינן דילמא משהי לה, והכי נמי במחובר לקרקע גזרינן דילמא משהי לה. ועוד ראייה דהלכה כר"מ בגזרותיו, (ה"ת).<sup>84</sup>

פרק אחד עשר [ה"ד]. וכל אלו שאומרין שחט [תרנגול זה שקרא ערבית] וכו'.

תמה הוא זה דבמסכת שבת<sup>85</sup> גרסינן דמותר לשחטו לכתחלה ואין בו משום דרכי האמורי, ובתוספתא בפרק אמורי<sup>86</sup> איתא להאי ברייתא אלמא דמותר לכתחלה, והוא כתב בכאן שכל העושה מדברים אלו לוקה, וצ"ע.

<sup>82</sup> ע"ז, כ' ב'.

<sup>83</sup> משנה, שם י"ד ב'. ולשיטת הרמב"ם שפסק: ומוכר לו על מנת לקוץ, עי' בכ"מ.

<sup>84</sup> עי' לעיל הערה 76.

<sup>85</sup> ס"ז ב'. ועי' בכ"מ שכתב על דבריו אלו: וספר מוטעה נזדמן לו רבנוסחי דיוק כתוב כדברי רבינו וכך הם דברי רש"י. ועי' ברק"ם שם שמביא גירסת הכת"י אוכספורד שם באמת כתוב: אין בו משום דרכי האמורי. וגירסא זו היתה לפני הרמ"ך. וכן גם בתוספתא שבת גרס הרמ"ך: מותר ואין בו משום דרכי האמורי. ועי' תוספת ראשונים לר"ש ליברמן, ח"א עמ' 127.

<sup>86</sup> תוספתא שבת, פ"ו ופ"ז (פ"ז ופ"ח) נקראו פ' אמורי, עי' שבת ס"ז א' וברש"י ד"ה בפרק.



בין שפייה אסורין כדאמרינן בגמ' 75 גזרה דילמא מגבי לה והויא ע"ז של ישראל ואין לה בטלה לעולם. (ה"ת) 76

פרק תשיעי [ה"ו]. דברים שהם מיוחדין למין ממני ע"ז אסור למוכרן לעובדי ע"ז שבאותו מקום וכו'.

תימה דבגמרא חזינן דאפי' דבר המיוחד לע"ז מותר למכור לו, תרנגול לבן מיוחד לתקרובת ע"ז הוא. ומסיק בגמרא 77 דלכ"ע היכא דאמר תרנגול למי, מותר למכור לו תרנגול לבן ואפי' לא יהא בין התרנגולים. וכן פסק הרב אלפאסי ז"ל. [ה"ט]. עיר שיש בה ע"ז [מותר להלך חוצה לה ואסור להכנס לתוכה] וכו'.

תמה דבגמ' משמע דאפי' לשאת ולתת עמהם מותר. 78 ולכאורה משמע היכא דהדרך מיוחדת לאותו מקום אסור ללכת אפי' חוצה לו, דלא שרי לשאת ולתת אלא היכא דעבר והלך לשם, מ"מ בזה אין ספק שמותר לשאת ולתת עמהם. וכן פר"ש ז"ל, 79 וכן נראה מעיקר הגמרא 80 (ה"ת). 81

75 ע"ז, מ"ב א': ורבא אמר לעולם כי פחסה ישראל נמי בטלה אלא גזרה דלמא מגבה לה והדר מבטל לה והוי ע"א ביד ישראל וכל ע"א ביד ישראל אינה בטלה לעולם; כל' דלמא מגבה לה וקני לה בהגבהה. אולם עי' בתוס' ע"ז, ס"ד ב', ד"ה מסתברא, שכתבו דטעם זה של גזרה דלמא מגבה לה והדר מבטל לה היינו דוקא לרשב"ל ורבי יוחנן פליגי עליה. ולפי"ז אין להקשות מכאן על הרמב"ם שפסק כר' יוחנן. עי' לעיל הערה 74.

76 פי' ר"ת זה אינו ידוע לי.

77 ע"ז, י"ד א', על הא דאמר רבי יהודה במשנה מוכר הוא לו תרנגול לבן בין התרנגולין שנו בגמ': ה"ד אילמא דקאמר תרנגול לבן למי וכו', ואפי"ה לר"י בין התרנגולין אין בפ"ע לא, ולת"ק אפי' בין התרנגולין נמי לא, אר"נ בר יצחק הב"ע כגון דאמר זה וזה. ופי' רש"י: ומיהו תרנגול סתמא בין לר"י בין לרבנן מותר למכור לו. ועי' בכ"מ.

78 פי' קושיתו הוא למה כתב הרמב"ם שמותר להלך חוצה לה, והרי אפי' גם לסחור עמהם מותר. הרמ"ך מפרש איפוא את דברי המשנה ע"ז, י"א ב': "עיר שיש בה ע"ז חוצה לה מותר וכו'" שהיא דנה בזה שמותר לסחור עמהם חוצה לה, ואם יש ע"ז חוצה לה מותר לשאת ולתת עמהם בעיר. אבל הרמב"ם מפרש את המשנה שהיא באה לקבוע את הגבולות שבתוכם מותר להלך בלבד, אבל המשנה אינה דנה בהיתר מו"מ עמהם. ועי' בפ"ה המשניות שכתב שם, "לפי שאסור ליכנס לעיר שיש בה עכו"ם". וכ"ג השיג עליו הראב"ד וכתב: בתוספתא מפרש לה ביריד ובמשא ומתן עמהם ואפי' להלוק שם ביום החג אסור מפני החשש של משא ומתן. כוונתו לתוספתא ע"ז, פ"א, שם נוסח ההלכה הוא: "יריד שבתוך הכרך, תוך הכרך אסור, חוץ לכרך מותר; ושחון לכרך, חוץ לכרך אסור, תוך הכרך מותר". ועי' בירושלמי ע"ז, פ"א ה"ד, שם אמר ר"ל למשנתנו: ביריד שנו.

79 עי' רש"י למשנה, שם.

80 בגמ' שם שאל ר"ש בן לקיש מר"ח עטלווא של עזה מהו, כל' מיבעיא ליה אם מותר לשאת ולתת עם בני עזה ביום איר שחוצה לה, והשיב לו שמותר. עיי"ש תר"ה עטלווא. ועי' בכ"מ ובלח"מ.

81 עי' לעיל הערה 76.

מ"מ תימא הוא איך לא אמר ואם ישראל משומד הוא אסרה. וליכא למימר דפסק כמ"ד אין אדם אוסר דבר שאינו שלו אפי' ע"י מעשה ואפי' בישראל משומד, דהא אחז ישראל משומד הוה ואסר דבר שאינו שלו ע"י מעשה.

[ה"ו]. כיצד מאבדין ע"ז כו' [שוחק וזורה לרוח או שורף ומטיל] לים המלח.

תמה היכי פסק כרב יוסף דהא רבא<sup>70</sup> פליג עליה בפסחים<sup>71</sup> ואמר מסתברא בע"ז לים המלח אזלא לא בעיא שחיקה ואפי' בעיניה יכול למשדי ליה; וכיון (דרבא) [דרבה] פליג עליה הלכתא כותיה דקיל"ן דכל רבה ורב יוסף הלכתא (כרבא) [כרבה] בר משדה קנין ומחצה. ואע"ג דתניא כותיה דרב יוסף הא דחי ליה רבה ומוקי לה בשאר נהרות ולא בים המלח, ודיקא נמי דקתני לים סתמא. (ה"ג, ת"ל).<sup>72</sup>

[ה"ט]. המבטל ע"ז ביטל [משמשיה] וכו', [ותקרובת עכו"ם אינה] בטלה לעולם.

תמה איך סתם ואמר דכל תקרובת אינה בטלה לעולם, דהא איכא תקרובת דיש לו בטלה היכא דלא הוי משתבר כעין פנים, כדחזי' באבני מרקוליס שבטלן גוי דשרו, ומפרש בגמ' טעמא משום דבעי' כעין פנים,<sup>73</sup> ובזרק מקל לפניה חייב ואינה נאסרת אעפ"י שעבודתה בכך, ש"מ דליאסר בעינן כעין פנים.

[הי"א]. לפיכך המוצא שברי ע"ז אסורין שמא לא בטלוה הגויים.

הרי"ף לא פסק כן דהא איתי מילתא דשמואל דאמר המוצא שברי צלמים מותרין ופסק נמי כר' יוחנן דע"ז שנשתברה מאליה אסורה. ולכאורה<sup>74</sup> כותיה דודאי איכא לאיפלוגי בין מוצא לנשתברה, דהא שמואל גופיה אמר בפרק כל הצלמים דע"ז שנשתברה מאליה אסורה, ואפי' הכי שרי במוצא, דאיכא חילוק בין מוצא לנשתברה. וזה הרכ נראה דפסק לגמרי כר' יוחנן דמוצא שברי ע"ז נמי אסורין.

[הי"ב]. ואם היתה של ישראל בין לצורכו בין לצורכה בין היא בין שפייה אסורין לעולם שע"ז של ישראל אין לה ביטול לעולם.

תמה מאי ארייא של ישראל אפי' של גוי נמי, וישראל ששפה אותה בין היא

<sup>70</sup> צ"ל: רבה.

<sup>71</sup> כ"ח א'.

<sup>72</sup> ע'י לעיל הערה 68.

<sup>73</sup> ע"ז, נ' א': ומאן דלא פריש אמר בעינא כעין פנים וליכא.

<sup>74</sup> אולי צ"ל כאן: נראה. והכ"מ שהביא את דבריו אלה גורס כאן: ולכאורה נראה לפום ריהטא דודאי איכא לאיפלוגי וכו'. ולדעת הרמב"ם שפסק כר' יוחנן, נראה שהוא סובר ששמואל כר"ל סבירא ליה ולא כר' יוחנן, ע'י לעיל הערה 51.

דאיכא<sup>62</sup> כעין פנים ממש, מ"מ משתבר לשם ע"ז והוי כשבר מקל לפניה דדמי לזביחה.

[הט"ז]. ופעור ומרקוליס [כל הנמצא עמהן בין בפנים בין בחוץ] אסורין בהנאה.

תמה דהא מצא בראשה מעות אמרקוליס קאי, וכן פר"ש<sup>63</sup>, ואינו אסור כיון דאינו של נוי ואינו כעין פנים, מיהו אי הוי כעין פנים או דבר של נוי מיתסר אפי' בחוץ, דחוץ למרקוליס כפנים דמי<sup>64</sup> ומיתסר אפי' אינו של נוי אי הוי כעין פנים, מה שאין כן בשאר ע"ז דחוץ דבר שאינו של נוי מותר אפי' כעין פנים, והרב הזה כתב דאי כעין פנים אפי' בחוץ מיתסר בכולהו, וצ"ע.

פרק שמיני [ה"א]. בד"א בבהמת עצמו [אבל אם שחט בהמת חברו לעכו"ם או החליפה לא נאסרה שאין אדם אוסר דבר] שאינו שלו.

תמה דבגמ'<sup>65</sup> מסיק דעשה בה מעשה אסרה דאמר רב הונא היתה בהמת חברו רבוצה לפני ע"ז ושחט בה סימן אחד אסרה, וחזי לה מכלים דאחז<sup>66</sup> דאמר גגנום, ואע"ג דלית ליה שותפות בהדא,<sup>67</sup> כמו שפר"ש בכלים שהזניח המלך אחז (ה"ג, ת"ל).<sup>68</sup> וי"ל דהא דחולין מסייע ליה דאוקימנא דאפי' למאן דאמר אדם אוסר דבר שאינו שלו ע"י מעשה ה"מ ישראל משומד אבל ישראל אחר לצעורי קא מכזיב.<sup>69</sup>

ולא כעין זריקה משתברת איכא? אמר רבא אמר עולא כגון שבצרן מתחילה לכך. ועי' רש"י שם.

<sup>62</sup> ט"ס הוא וצ"ל: „דאינו", וכ"ה גם בכ"מ.

<sup>63</sup> רש"י למשנה שם.

<sup>64</sup> ע"ז, נ"א ב': א"ר יוסי בר חנינא נקטינן אין קילקלין (כלו' מחיצה) לא לפעור ולא למרקוליס וכו', אלא אפי' חוץ כבפנים דמי.

<sup>65</sup> חולין, מ' א': א"ר הונא היתה בהמת חברו רבוצה לפני עכו"ם וכו' סבר לה כי הא דאמר עולא אמר ר"י אע"פ שאמרו המשתחוה לבהמת חברו לא אסרה, עשה בה מעשה אסרה.

<sup>66</sup> ע"ז, נ"ב ב': כל הכלים אשר הזניח המלך אחז במלכותו במעלו הכנו והקדשנו וכו' הכנו שגנום והקדשנו שהקדשנו אחרים תחתיהם. ושם, נ"ד ב': ואלא מכלים דכתיב ואת כל הכלים אשר הזניח המלך אחז במלכותו וכו' ואמר מר הכנו שגנום והקדשנו שהקדשנו אחרים תחתיהם, והא אין אדם אוסר דבר שאינו שלו? אלא כיון דעבר בהו מעשה איחסרו להו וכו'. ועי' ברש"י ובר"ח שם. וט"ס הוא בכת"י, וצ"ל „גנום" במקום „גגנום".

<sup>67</sup> כונתו להא דאמרו בחולין, מ"א א', דאפי' למ"ד אין אדם אוסר דבר שאינו שלו כשיש לו שותפות בגוה אוסרה.

<sup>68</sup> פ' ר"ת אלו אינו ידוע לי.

<sup>69</sup> חולין, מ"א א': ורב נחמן ורב עמרם ור"י אמרי אפי' למ"ד אדם אוסר דבר שאינו שלו ה"מ עכו"ם אבל ישראל לצעוריה קא מכזיב. ועיי"ש בהמשך הסוגיא שאמרו שישראל מומר הרי הוא כעכו"ם. והרמ"ך הלך בשיטת הראב"ד שהשיג כמ"כ על הרמב"ם.

ואע"ג דבעציי ערלה לא בעי צננו דבגריפת התנור לחודיה סגי,<sup>54</sup> וכן כתב הוא עצמו בספר קדושה.<sup>55</sup> וכן נראה מעיקר הגמ' מאחר דאין אבוקה כנגדו.<sup>56</sup> דילמא שאני עצי אשרה דכיון שהוא עצמו נטל העצים הוא ליה ע"ז של ישראל ואין לה בטלה עולמית בשום דבר שבעולם.

[הי"ד]. ומותר ליטע תחתיה [ירקות בין בימות החמה שהן צריכין לצל, בין בימות הגשמים, מפני שצל האשרה שהוא אסור עם הקרקע שאינה נאסרת גורמין לירקות אלו לצמות, וכל שדבר אסור ודבר מותר גורמין לו הרי זה מותר בכל מקום].

תימא דהא חזינן בגמרא<sup>57</sup> דאפי' למאן דאמר זה וזה גורם מותר אסור לזרוע תחתיה בימות החמה דכחד גורם הוא, והכי אית לן למימר בגמ' דהוא סבר למימר רבנן סבירא להו זה וזה גורם מותר, ואפי' הכי אמרי דאסור לזרוע תחתיה בימות החמה. ושמא דבמסקנא סבירא לן<sup>58</sup> דר' יוסי אית ליה זה וזה גורם מותר, ולטעמייהו דרבנן קאמר להו דילמא סבירא להו<sup>59</sup> דמותר לזרוע אפי' בימות החמה, וצ"ע.

[הט"ז]. מצא בראשו דבר שכיוצא בו קרב לגבי מזבח הרי זה אסור.

תימא דאפי' דבר שאין כיוצא בו נמי קרב אסור, כגון פרכילי ענבים ועטרות שבלים<sup>60</sup> ובלבד שיהא משתכר כדמקשינן בגמ': אלא עטרות שבלים לא כעין פנים איכא ולא זריקה המשתברת איכא, ומשני כגון שבצרה מתחלה לכך.<sup>61</sup> ואע"ג

<sup>54</sup> פסחים, ע"ה א': בעא מיניה רב חנינא בר אידי מרב אדא בר אבהו תנור שהסיקו בקליפי ערלה וגרפו ואפה בו את הפת לרבני האוסר מהו, א"ל הפת מותרת.

<sup>55</sup> הל' מאכלות אסורות פט"ז, הכ"ב.

<sup>56</sup> עי' פסחים, כ"ז א': אמר ר"פ כשאבוקה כנגדו. ודברי הרמ"ך מכאן ואילך הביאם הכ"מ.

<sup>57</sup> ע"ז, מ"ח ב', במשנה: זורעין תחתיה ירקות בימות הגשמים אבל לא בימות החמה וכו', ר' יוסי אומר אף לא ירקות בימות הגשמים וכו', ואמרו בגמ': למימרא דר"י סבר זה וזה גורם אסור ורבנן אמרי זה וזה גורם מותר וכו'. ומשמע מזה, דאפי' רבנן הסוברים זה וזה גורם מותר, מ"מ אסור לזרוע תחתיה ירקות בימות החמה משום דכחד גורם הוא.

<sup>58</sup> שם, מ"ט א': ר"י לרבריהם דרבנן אמר להו, לדידי זה וזה גורם מותר, לדידכו דאמריתו זה וזה גורם אסור אורו לי מיהת אף ירקות בימות הגשמים.

<sup>59</sup> אולי צ"ל "ליה" במקום "להו", כלו' ר"י הסובר זה וזה גורם מותר, שכמותו פסק הרמב"ם, יסבור דמותר לזרוע תחתיה אפי' בימות החמה. ואפשר שהמלה "להו" מוסבת לחכמי הגמ' שפירשו כן את שיטת ר"י. ובכ"מ שהביא את דברי הרמ"ך האלה אינם הדברים, דילמא סבירא להו. ועי' בכ"מ שתיקן את הגירסא בראשית דברי הרמ"ך, ובכתי' שלנו הגירסא היא באמת כמו שתיקן הוא.

<sup>60</sup> משנה ע"ז, נ"א ב'.

<sup>61</sup> בגמ' שם, נ"א א': אלא פרכילי ענבים ועטרות של שבלים לא כעין פנים איכא

זה אסור בהנאה וכו' הרי היא באיסורה לו עד שיודע לו] שבטלוה הגויים.

מאי אריא יד ע"ז או רגלה, אפי' של צלמים כדקתני בגמ' 48 ה"ה דאפי' שברי צלמים 49 אלא משום דבעי למיתני סופא תבנית יד ורגל דאפי' בצלמים אסור. ואי אמרת הני מילי כשעומדין על בסיסן, 50 מ"מ מאי אריא יד ע"ז או רגלה אפי' שאר שברים נמי, דהא איהו גופיה פסק כר' יוחנן, 51 וליכא חילוק בין מוצא לנשתברה מאליה. וחזי' לר' יוחנן דאפי' שאר שברים נמי אסר דקא מקשי לר"ל מיהא דמוצא שברי צלמים מותרין הא שברי ע"ז אסורים, וודאי שברי ע"ז דומיא דשברי כלים, ושברי צלמים ודאי משאר שברים קאמר מדקתני סופא תבנית יד ותבנית רגל הרי אלו אסורין, מכלל דרישא דשרי בשאר דברים איירי.

[הי"א]. האשרה בין שהיתה וכו' [אסור לישב בצל קומתה ומותר לישב בצל] השריגין והעלין.

תמה הוא דהא חזינן בגמ' 52 המשתחוה לאילן תוספתו אסורה; ואי משום דחשיב להו צל צלה, אכתי קשיא דלכולהו לישנא דאיתמרו בגמ' 53 משמע דאסור לישב לכתחלה בצל צלה. וי"ל אע"ג דתוספתו אסורה ה"מ לשרוף או ליהנות מגופו אבל צלו מותר משום שדבר שאין בו ממש הוא. מ"מ צ"ע איך לא הזכיר לאסור אלא צל קומתה, דצל צלה נמי אסור לכתחלה.

[הי"ג]. נטל ממנה עצים [אסורים בהנאה הסיק בהן את התנור יוצן ואח"כ יסיק בעצים באחרים של היתר ויאפה בו. אפה בו את הפת ולא צננו] הפת אסורה בהנאה.

48 ע"ז, מ"א א': אמר שמואל אפי' שברי עכו"ם. והאנן תנן שברי צלמים? הוא הדין דאפי' שברי עכו"ם, והא דקתני שברי צלמים משום דקבעי למיתנא סיפא מצא תבנית יד תבנית רגל הרי אלו אסורין וכו'. ועי' בכ"מ שמביא את דבריו אלה והגירסא היא שם: מאי אריא יד עכו"ם או רגלה אפי' של אלילים נמי. והנכון הוא כגירסא שלפנינו: אפי' של צלמים.

49 שניאה היא וצ"ל: שברי עכו"ם. וכ"ה הגירסא גם בכ"מ.

50 בגמ' שם, עמו' ב'.

51 במחלוקת ר"י ור"ל בעכו"ם שנשתברה מאליה, שם. ועי' בכ"מ שמבאר את שיטת שמואל עפ"י דעת ר"ל דעכו"ם שנשתברה מאליה מותרת; ולפי"ז הרמב"ם שפסק כר"י לא יסבור כשמואל, ובוה מסתלקת קושיה הרמ"ך. אולם עי' בר"ן בע"ז, שם, שכתב לבאר את שיטת הרי"ף, שדעתו היא כנראה ששמואל כר' יוחנן סבירא ליה. עי' לק' הערה 74.

52 ע"ז, מ"ח א': אמר שמואל המשתחוה לאילן תוספתיה אסורה וכו'.

53 שם, מ"ח ב': אמר רבב"ח אמר ר"י לא נצרכה אלא לצל צילה וכו' והא קמ"ל דאפי' לצל צילה לא ישב, איכא דמתני לה אסיפא וכו' מכלל דלצל צילה אפי' לכתחלה ישב, לא הא קמ"ל דאפי' לצל קומתה אם ישב. והרמב"ם, שלא פסק לאסור צל צילה, משמע שלא גרס את סוף דברי הגמ': לא הא קמ"ל וכו'. ועי' בר"ן ובכ"מ.



יפה פירש זה הרב, אעפ"י שלא היו סבורין כן רבותי, שהם היו סבורין כל היכא דאין חותמה בולט מותר.<sup>42</sup> ואם כדבריהם כן הוא, אמאי צריך לתרץ של פרקים הוא<sup>43</sup> לימא על הלוח הוה שלא היה בולט. ומה שתירץ לעיל בשמעתא התם חותמו בולט הוה אינו עיקר מדמקשי בסיפא דשמעתא והא ר"ג יחיד הוא, וצ"ע. אי משום הא לא אריא דאפי' נימא דעיקר הוא לא קשיא ליה מידי דעיקר תירווצא דשני ליה בין שוקע לבולט לא איירי אלא לענין שמותר לקיימה אבל לעשות הוא עצמו אסור, וזה הרב לעשות איירי.<sup>44</sup> ואדרכא אם נאמר דההוא תירווצא עיקר סיועי מסייע ליה דהא אוקימנא הא דר"ג בשחותמה שוקע ואפי' הכי אצטריך למימר דאחרים עשו לו דהוא עצמו אסור, ודוק ותשכח דכולהו תירוצי דאיתמרי בגמ' בלוקים נאמרו אבל לעשות ודאי אסור דההוא תירווצא דתירץ אחרים עשו לו לא זו ממקומו.

[הי"א]. צורת הבהמות ושאר נפש [חיה חוץ מן האדם וצורות האילנות ודשאים וכיו"ב מותר לצור אותם] ואפי' הצורה בולטת. תמה הוא דהא דמות ד' פנים בהדי הדדי אסור כדאמר אביי<sup>45</sup> והא ד' פנים הן בהמות וחיות ועופות. וא"ת א"כ דעיקר מה שאמר אביי תיפוק לי משום צורת אדם, הא לא קשיא שאם עשה אדם ושור בצורה אחת גריע מאדם לבדו<sup>46</sup> דלא מקרא דלא תעשון אתי, אבל כשעושה דמות ד' פנים ודאי אסור דאמרה תורה לא תעשון כדמות מה שאתי, ותמה הוא למה לא פסק כאביי דהא אין אדם חולק עליו,<sup>47</sup> וצ"ע. פרק שביעי [הי"ז]. צלמים הנמצאים מושלכים [בשוקים וכו'] הרי אלו מותרין, ואין צריך לאמר שברי צלמיהן, אבל המוצא יד מצורת כוכב או מזל או רגלה או אבר מאיבריה מושלך הרי

<sup>42</sup> הוא מסכים בזה לדעת הרמב"ם האוסר לצור דמות חמה ולבנה כוכבים ומזלות ואפי' כשאינם בולטים. והראב"ד השיג על הרמב"ם: "דומה שהוא מחלק בין צורת אדם לצורת המשמשין במרום, צורת משמשין אפי' הם שוים וכו' וצורת אדם אם אינו בולט מותר, ולא ידעתי למה ומאין לו". אבל חכמי התוס' (ע"ז, מ"ג ב', ד"ה והא) כתבו כדעת הרמב"ם, וז"ל: ואורי' ור"ת וריב"א כי בחמה ולבנה ומזלות אין חילוק בין בולטין לשוקעין וכן ברקיע שוקעין הם ולא מפלגי בהכי אלא גבי פרצופין וכיו"ב. כלו' אין לחלק בהם בין בולטין לשוקעין כיון שברקיע עצמה שוקעין הן, משא"כ פרצוף אדם שבטבע בולט הוא. וכן כתב גם הר"ן, ועי' בכ"מ.

<sup>43</sup> בגמ' ר"ה, כ"ד ב', שהקשו על המשנה: דמות צורות לבנה היו לר"ג בטבלא וכו', ומי שרי והכתיב לא תעשון אתי? ושנו בסוף הסוגיא, דפרקים הוו, כלו' של חוליות היו ולא היה מחברה אלא בשעת בריקת העדים. ואם כשאין חותמה בולט מותר, אמאי צריך לתירוצא זה.

<sup>44</sup> עד כאן מובאים הרברים בכ"מ, ומכאן ועד סוף המאמר אינם שם.

<sup>45</sup> ר"ה, כ"ד ב', ע"ז, מ"ג א'.

<sup>46</sup> כמ"כ כתבו גם בתוס' ר"ה, שם, ד"ה לא.

<sup>47</sup> כלו' למה כתב הרמב"ם סתם, שצורות הבהמות ושאר נפש חיה מותר לצור אותם, ולא פסק שדמות ד' פנים בהדי הדדי אסור. ועי' בכ"מ.

[ה"ו]. העובד ע"ז מאהבה [כגון שחשק בצורה זו מפני מלאכתה שהיתה נאה ביותר או שעבדה מיראתו לה שמא תריע לו וכו', אם קבלו עליו באלוה חייב סקילה, ואם עבדה דרך עבודתה או באחת מארבע] עבודות מאהבה פטור.<sup>39</sup>

תמה הוא זה שהוא עצמו כתב בסמוך שאם זרק אבן למרקולים לבזותו או פער עצמו לבזותו חייב אע"ג דלא קבליה עילויה, אעפ"י שלא<sup>40</sup> עשה לה כבוד. גם הפירוש שפירש בע"ז מאהבה ומיראה לא נהיר, ולא פירש כן אחד מן המפרשים. ועיקר הפירוש כמו שפירשו רבני צרפת<sup>41</sup> העובד ע"ז שהיא מאהבה ומיראה כמו המן וכמו צלמו של נבוכדנצר. ולהאי פירוש לא קשיא מתכוין לבזוי אמאי חייב, וצ"ע.

[ה"א]. וכן אסור לצור דמות [חמה ולבנה כוכבים ומזלות ומלאכים שנאמר לא תעשון אתי, לא תעשון כדמות שמשיי המשמשין לפני במרום ואפילו] על הלוח.

מקל לפניה חייב ואינה נאסרת; ונראה ששני אמוזאים הם אליבא דרב. אולם אפשר לפשר ביניהם ולאמר שהם אינם חולקים, כי ר"נ דמחייב בזרק מקל לפניה היינו דוקא כשעובדים אותה בזריקת מקל דהוה כדרכה. ועי' בכ"מ שכתב כמ"כ אבל לא בשם הרמ"ך. <sup>39</sup> עי' בראב"ד שהשיג על הרמב"ם וכתב: א"א דומה שהוא השמיט מכאן מיראה ובגמ' הולכין יחד מאהבה ומיראה וכו'. אמנם בדפוסים שלנו כתוב ברמב"ם, או באחת מארבע עבודות מאהבה או מיראה פטור. והכ"מ העיר על השגת הראב"ד: "איני מבין דבריו דהא רבינו לא השמיט מיראה שהרי כתב או שעבדה מיראתו לה". אמנם הראב"ד אינו משיג על ראשית דברי הרמב"ם אלא על סופם, וכנראה נודמן לו ספר שם לא היו הדברים "או מיראה". ונראה שגם הרמ"ך לא גרס את הדברים האלה, שהרי לפי נוסח דבריו הוא משמיט "או מיראה" מתוך דברי הרמב"ם. אכן ראשית דברי הרמב"ם מוכיחה על סופם, והואיל וכתב "או שעבדה מיראתו לה" מוכח שצריך לגרוס גם בסוף דבריו "או מיראה" כנוסח הדפוסים.

<sup>40</sup> בכת"י כתוב "אעפ"י שעשה", אבל בין השיטין נוספה המלה "שלא"; וזו היא הגירסא הנכונה. ופי' קושתו היא, שהרי הרמב"ם בעצמו כתב (לעיל, ה"ה) שהעובד דרך בזיון, כגון הזורק אבן כדי לבזותו, חייב הואיל ועבודתו בכך ואע"פ שאינו מקבלו לאלוה, א"כ למה יהא פטור העובד עכ"ם מאהבת צורתה שהיא נאה או מיראתה שלא תריע לו כשאינו מקבלה לאלוה. ועי' בכ"מ שכתב לזה: ואין זו השגה שרבינו בזרק אבן למרקולים לבזותו לענין חיוב חטאת קאמר ולא לענין חיוב סקילה. ודעת הרמב"ם היא שהעובד וחושק את הדבר משום אמנותו ויופי צורתו כאמן המעריך את היופי הוא פטור, והוא פירוש יפה. ועי' לעיל הערה 6.

ולקושת הרמ"ך שהקשה עליו ממה שכתב בסמוך שאם זרק אבן לבזותו חייב אע"ג דלא קבלו לאלוה, נראה שצריך להבחין עפ"י שיטת הרמב"ם בין ע"ז שנתעבדה לשם אלהות ע"י עובדיה, ואז הוא חייב כשעשה מעשה כדרך עבודתה ואע"ג שנתכוון לבזותה ולא קבלה לאלוה, ובין פסל שלא נעשה לשם עבודה כלל, שאינו חייב אלא רק אם קבלו לאלוה. ועי' הגהות מיימוניות.

<sup>41</sup> עי' סנהדרין, ס"א ב', רש"י ותוס', וגם הראב"ד פירש כמותם והשיג על הרמב"ם.

פרק שלישי [ה"ד]. ספת לה צואה וכו' [חייב, שחט לה חגב פטור אלא א"כ היתה] עבודתה בכך.

תימא היאך פריש לה למילתא כפשטה, והיה לו לפרש כשהיו שוחטין לפניה בהמה ועכשיו כששחט לה חגב גרעה לעבודתה, אבל אם עבודתה בגיפוף ונישוק ושחט לה חגב חייב, דאם בשבר מקל לפניה חייב דחשבינן ליה כעין פנים<sup>32</sup> כ"ש בשוחט לה חגב ובהמה בעלת מוס<sup>33</sup> דהוי כעין פנים וחייב. יפה פירש הרב דשחט לה חגב פטור בכל ענין ואדרבא כ"ש דפטור היכא דאין דרכה בשחיטה כלל ולא אצטריכין לטעם גרועי גרעא כמו שפרשו המפרשים ז"ל. אלא משום דבגמ'<sup>34</sup> הוה מוקמינן הא דשבר מקל לפניה כתנאי, והא אמרינן דרבנן פטרי בשחט לה חגב לא סבירא להו הא דשבר מקל לפניה חייב, ועל זה דחה בגמרא<sup>35</sup> ופירשו המפרשים דאפילו לרבנן איכא לאוקומא דכי פטרי רבנן שחט לה חגב אעפ"י שהיא כעין עבודתה והיא כעין שחיטה משום דגרועי גרעא דהיא דרכה בשחיטת בהמה והשתא שחט לה חגב, אבל שבר מקל לפניה מודו דחייב משום שהיא כעין עבודתה שדרכה היה בקישקוש מקל ועכשיו עבדה בשבירת מקל שהיא זריקה משתברת ודמיה לעבודת פנים, אבל אם דרכה בגיפוף ונישוק ושבר מקל לפניה פטור אעפ"י שהיא זריקה משתברת, דלא מהני זריקה משתברת אלא במי שהיא כעין עבודתה אבל כשאנה כעין עבודתה לא מחייב כבעין<sup>36</sup> פנים אלא באחת מד' עבודות ממש כדאיתא בסנהדרין<sup>37</sup> וכן פירשו כל המפרשים וכן נראה מעיקר הגמרא, ה"ת.<sup>38</sup>

[ה"ד]. ע"ז שעובדין אותה במקלות [שבר מקל בפניה חייב ונאסרת, זרק מקל בפניה חייב ואינה נאסרת, שאין זריקת המקל כעין זריקת הדם, שהרי המקל כמו שהוא] והדם מתפזר.

היה לו לפרש והוא שעובדין אותה בזריקת מקל דהוי דרכה, אבל אם חובטין מקל לפניה וזרק מקל לפניה פטור, כי היכי דלא תקשי דרב אדרב<sup>39</sup> ולא נוקים לה באמוראי אליבא דרב.

<sup>32</sup> עי' ע"ז, נ' א'.

<sup>33</sup> כוונתו להמשך דברי הרמב"ם שכתב: וכן אם שחט לה בהמה מחוסרת אבר פטור אא"כ היתה עבודתה בכך. וקושייתו של הרמ"ך היא כהשגת הראב"ד שכתב: וכי שהיית חגב או שחיטת בהמה מחוסרת אבר פחותים הם וכו'?

<sup>34</sup> ע"ז, נ"א א'.

<sup>35</sup> דבריו עד כאן מובאים בכ"מ, ומכאן ואילך עד סוף המאמר אינם שם.

<sup>36</sup> צ"ל: בכעין.

<sup>37</sup> דף ס' ב': אין לי אלא בזובח, מקטר ומנסך מניין? ת"ל בלתי לה' לברו וכו' יכול שאני מרבה המנפץ והמנשק וכו', ועיי"ש רש"י וכל הסוגיא.

<sup>38</sup> ר"ת זה אינו מובן לי, ואפשר שהוא קיצור מהמלה "החם", כלו': וכן נראה מעיקר הגמ' החם. ואולי הוא ר"ת של "הכי תירוצו".

<sup>39</sup> כלו' הא דאמר רב יהודה אמר רב (ע"ז, נ' ב') עכו"ם שעובדין אותה במקל, שבר מקל בפניה חייב, זרק מקל בפניה פטור, אהא דאמר רב נחמן אמר רבה בר אבון אמר רב (שם, נ"א א') עכו"ם שעובדים אותה במקל שבר מקל בפניה חייב ונאסרת, זרק

אם לא יפייס אותו אבל אם יפייס אותו מזה<sup>27</sup> למחול דאמר רבא כל המעביר על מדותיו מעבירין לו על כל פשעיו.<sup>28</sup>

## הלכות עבודה זרה

**פרק ראשון [ה"ג]. וחוקות הגוים, [ובן מ' שנה הכיר אברהם את בוראו וכו']**

תמה הוא זה דמסכת נדרים<sup>29</sup> מסיק דבן שלש שנים הכיר אברהם את בוראו, עקב בגימטריא מאה ושבעין ותרתינן הוו.

**פרק שני [ה"ה]. וכן המינין<sup>30</sup> מישראל [אינם כישראל וכו'] ואינם מקבלים אותם בתשובה.**

תמה הוא זה דהא מפורש בגמ'<sup>31</sup> בהדיא דמקבלין אבל אינו מאריך ימים דכל דפריש ממינות מיית, ורב חסדא היה מקבלם בתשובה ואמר להו טרחו ליה בזוודתא, והכי פירושו דקרא אעפ"י שישוכו לא ישיגו, ומי יוכל לאמר שלא נקבל כל בעל התשובה, וצ"ע.

<sup>27</sup> צ"ל: מצוה. ובאמת כן כתב גם הרמב"ם בסוף רבריו: עד שיבקש ממנו מחילה ויסלח לו. ומתוך שהרמ"ך משיג עליו נראה שבספר הרמב"ם שהיה לפניו לא היו הדברים האלה. ולכאורה הרמ"ך סותר את עצמו שהרי לעיל [ע"י הערה (25) כתב: דלאפקרותא אינו יכול להתיר עד לאחר ל' יום אפי' יפייס לבעל דיניה, וכאן הוא כותב: אבל אם יפייס אותו מצוה למחול. ואולי כוונתו בזה לאחר ל' יום. ואפשר עוד שהוא מפרש "אפקרותא" מי שאינו נשמע לבא לדין, ובכאן הוא דן בת"ח שבוהו או חרפו אדם.

<sup>28</sup> יומא, פ"ז ב'.

<sup>29</sup> ל"ב א', כמנין עק"ב שנים שמע אברהם בקולי וכל שנותיו היו קע"ה, מלמד שבן ג' היה כשהכיר את בוראו, רש"י שם. וכן השיג גם הראב"ד. והכ"מ הביא דברים בשם הרמ"ך שאינם בכתי' שלנו. וז"ל שם: והנהגות כתבו בשם הרמ"ך שאפשר לקיים זה וזה דבן ג' שנים היה כשהתחיל להשוב ולשוטט במחשבתו להכיר בוראו אבל כשהיה בן מ' השלים להכירו וכו'. ועי' במבוא לחידושי הראב"ד על ב"ק שהוצאתי לאור, לונדון ת"ש, עמ' 28, שם כתבנו שיסוד דעותיהם השונות נעוץ בהשקפות עולם שונות. לדעת הרמב"ם רק ע"י אמונה המיוסדת בהכרה שכלית מגיע האדם לשלמות. ומעתה כשנאמר על אברהם, אבי אמונת האחדות, שהכיר את בוראו, אין זאת אלא שהשיג את אחדות האלהות בהכרה שכלית. וא"א היה לו לאברהם אבינו להגיע למדרגת אמונה שיש בה משום הכרה טרם שבשל וגמל שכלו. אולם הראב"ד יד הרגש והאמונה התמימה גברה בו על יד השכל ואמונת ההכרה. לדעתו אמונה שיסודה ברגש וברמיון אינה פחותה במעלה מזו שיסודה בשכל. ומעתה הוא מטעים את דברי האגדה, בן ג' שנים הכיר אברהם את בוראו" לאמר שאפשר שהגיע לאמונת האחדות בכח הרגש והרמיון טרם שגמל ובשל שכלו. והרמ"ך דעתו בזה כדעת הראב"ד; אמנם גם הוא מודה שא"א היה לאברהם להגיע לשלמות ההכרה טרם שגמר ובשל שכלו, ורק כשהיה בן מ' השלים להכירו.

<sup>30</sup> בספרי הרמב"ם שלנו הגירסא היא: האפיקורסים.

<sup>31</sup> ע"י, י"ז א', ועי' בכ"מ.

הסנדל.<sup>23</sup> מ"מ צ"ע בגמרא שלנו<sup>24</sup> אמאי לא פשיט מהא דר' אליעזר דמנודה אסור בנעילת הסנדל. ושמא י"ל דר' אליעזר מילתא יתירתא עבד כשחלץ מנעליו, תדע דהא ישב לו על גבי קרקע. ומנהג בכל ארץ ספרד שהמנודה חולץ מנעליו. [ה"ז]. בכמה מתירין הנידוי [או החרם בשלשה וכו', ויש לתלמיד להתיר הנידוי או החרם ואפילו] במקום הרב. צ"ע למה לא הזכיר דלאפקרותא אינו יכול להתיר עד לאחר ל' יום אפי' יפייס לבעל דיניה,<sup>25</sup> והיה לו להזכיר כמו כן נידוי כנזיפה שלהם.<sup>26</sup>

[ה"ב]. וחכמים גדולים היו משתבחים במעשיהם הנאים ואומרים שמעולם לא נידו אדם וכו', בד"א] כשבזהו בסתר אבל ת"ח שבזהו או חרפו אדם בפרהסיא אסור לו למחול על כבודו וכו'.

שאינו נידוי פחות משלשים יום". ואע"פ שהדברים בירושלמי נאמרו לענין גילוח, ניתנו הדברים להאמר גם לענין כביסה. ומדברי התוס' משמע שהוא מייחס את דברי הירושלמי לענין כביסה כלענין גילוח. ולדברי הירושלמי האלה מכוון הרמ"ך בהערותיו.  
<sup>23</sup> ירושלמי מ"ק, פ"ג ה"ה: תני אבל ומנודה שהיו מהלכין בדרך מותרין בנעילת הסנדל, לכשיבוא לעיר יחלצו. בבבלי מ"ק, ט"ז ע"ב בעו: "מנודה מהו בנעילת הסנדל? אמר רב יוסף ת"ש כשאמרו אסור בנעילת הסנדל לא אמרו אלא בעיר אבל בדרך מותר, הא כיצד יצא לדרך נועל נכנס לעיר חולץ, וכן אתה מוצא במנודה ובאבל, מאי לאו אכולהו, לא אשאר". מקור הדברים הוא בתוספתא, תענית, פ"א, ו"ל: "כל אילו שאמרו אוכלין ושותין משחשיכה מותרין במלאכה וברחיצה ובסיכה ובנעילת הסנדל וכו', כל אילו שאמרו אסור בנעילת הסנדל, יוצא מן הכרך נועל, הגיע אל הכרך חולץ, וכן אתה אומר במנודה ובאבל". לפי הבבלי ששנו "לא אשאר", דברי התוספתא "וכן אתה מוצא במנודה ובאבל" מוסבים הם לא על הדברים שלפניהם "יוצא מן הכרך נועל, הגיע אל הכרך חולץ", אלא על ראשית התוספתא שרנה ברחיצה וסיכה. אבל בירושלמי תנו מפרש: "אבל ומנודה שהיו מהלכין בדרך וכו' ", ומכאן יוצא ברור שמנודה אסור בנעילת הסנדל. ולזה כוון הרמ"ך. וכראי להעיר שבבבלי הביאו את דברי התוספתא בנוסח שונה קצת: "יצא לדרך" במקום "יוצא מן הכרך"; "נכנס לעיר" במקום "הגיע אל הכרך". ואולי יש בזה נפקא מינה להלכה, כי לא הרי "יצא" כ"יוצא" ולא הרי "נכנס" כ"הגיע".  
<sup>23</sup> ירושלמי מ"ק, פ"ג ה"ה: תני אבל ומנודה שהיו מהלכין בדרך מותרין בנעילת הסנדל, לכשיבואו לעיר יחלצו.  
<sup>24</sup> מ"ק, ט"ז ב', שם שאלו: מנודה מהו בנעילת הסנדל, ולא פשטוה. וכן הקשו שם בתד"ה לא.

<sup>25</sup> אפקרותא, כלו' מי שנתפקר בת"ח ומבזהו או שאינו נשמע לבוא לדיון, עי' מ"ק, ט"ז א', וב"ק, ק"ב ב'. ומה שכתב "אינו יכול להתיר וכו' אפי' יפייס לבעל דיניה", זו היא מחלוקת הראשונים אם מתירין לו תוך שלשים יום כשנתפייס לו. עי' בית הבחירה למ"ק, הוצ' המכון פישעל, עמ' צ"ב. אבל מתוך סוף דברי הרמב"ם שכתב "אבל ת"ח שבזהו או חרפו אדם בפרהסיא אסור לו למחול על כבודו וכו' עד שיבקש ממנו מחילה ויסלח לו" משמע שמתירין לו בתוך שלשים אם נתפייס. עי' לק' הערה <sup>27</sup>.  
<sup>26</sup> מ"ק, ט"ז א': אמר רב חסדא נידוי שלנו כנזיפה שלהם ונזיפה דירדה שבעה, כלו' נידוי בבבל הוא כנזיפה בא".



לפני נשיא,<sup>13</sup> ואם לא היו מסופקין באדם גדול למה ילך לפני נשיא, יתיר אותו פחות שבהם. כן נראה עיקר, וכן שמעתי שמורין חכמים לתלמידיהם, אבל לא דרשינן ליה בפירקא.

**פרק שביעי [ה"א].** חכם זקן בחכמה וכו' [אין מנדין אותו בפרהסיא לעולם אלא א"כ עשה] כירבעם בן נבט וחביריו.

תמה הוא אם כדבריו כן הוא שאין מנדין את החכם אלא א"כ נעשה כירבעם בן נבט וחביריו, א"כ אמאי היה ר"ל<sup>14</sup> מנודה בשביל שנדה אדם אחר, והלא לא עשה כירבעם בן נבט. ואע"פ שהירושלמי מפרש כדבריו<sup>15</sup> אינו עיקר כפי<sup>16</sup> כחולק עם הגמרא שלנו<sup>17</sup> ממעשה דר"ל וממעשה דר' אליעזר<sup>18</sup> שברכוהו על שהיה חולק עם הרבים. וצ"ע רב פפא<sup>19</sup> אמאי היה משתבח בעצמו שלא היה מנודה תלמיד, והלא נדו חכמי ישראל את ר' אליעזר בן הורקנוס שהיה מכריע את כולם.<sup>20</sup>

[ה"ד]. מהו המנהג שינהג המנודה וכו', [מנודה אסור לספר ולכבס כאבל] כל ימי נידויו.

צ"ע למה לא הזכיר נעילת הסנדל והא חזינן לר' אליעזר כשברכוהו שחלץ מנעליו.<sup>21</sup> ובירושלמי מפורש בהדיא מנודה אסור לכבס<sup>22</sup> בנעילת

<sup>13</sup> שם סוף הרברים: ומאי תקנתיה זיל לגביה דלישרי לך. לא ידענא ליה, אמרו ליה זיל לגבי נשיאה דלישרי לך וכו'.

<sup>14</sup> עי' לעיל הערה 12.

<sup>15</sup> ירושלמי מועד קטן, פ"ג ה"א, בעוברא של ר' ירמיה ור' יעקב בי ר' בון בסוף נאמר שם: א"ל שמעתי שאין מנדין זקן א"כ עשה כירבעם בן נבט וחביריו.

<sup>16</sup> אולי צ"ל כאן "נראה", ואפשר שצ"ל "כי חולק".

<sup>17</sup> ידועים דברי הרי"ף סוף עירובין: "דכיון דסוגיון דגמ' דילן להתירא לא איכפת לן במאי דאסרי בגמ' דבני מערבא, דעל גמרא דילן סמכינן דבתרא הוא ואינהו הוי בקיאי בגמ' דבני מערבא טפי מינן" וכו'.

<sup>18</sup> ב"מ, נ"ט ב'; ירושלמי מ"ק, פ"ג ה"א. ועפ"י דבריו הירושלמי סותר את עצמו שהרי מעשה דר"א הוא גם בירושלמי. וגם הראב"ד (עי' ברא"ש מ"ק, ט"ז) הביא ראיה זו מר"א.

<sup>19</sup> מ"ק, י"ז א': אמר רב פפא תיתי לי דלא שמותי צורבא מרבנן לעולם.

<sup>20</sup> עי' לעיל הערה 18. <sup>21</sup> ב"מ, שם.

<sup>22</sup> עי' בכ"מ שמביא את דברי הרמ"ך האלה, ואין שם הרברים, "ואסור לכבס". אמנם דין זה, שמנודה אסור בכביסה, נראה ברור מן המשנה, ריש פרק ואלו מנלחין: "ואלו מכבסין במועד הבא ממדינת הים וכו' ומנודה שהתירו לו חכמים", זאת אומרת שרק בהתירו לו חכמים את הנידוי התירו את הכביסה, אבל בלאו הכי אסור ואי אפשר היה לו לכבס לפני החג. ועי' בתר"ה ומנודה, מ"ק, י"ד א', ו"ל: "בירושלמי מקשה הני למה התירו והלא פשע שלא בא לפני המועד לפני חכמים להתיר לו, ומשני שכלו לו שלשים יום של נידוי במועד דאין נידוי פחות משלשים יום". ו"ל הירושלמי מ"ק, פ"ג ה"א: "והמנודה וכו', מה אנן קיימין אם בשהתירו לו קודם לרגל יגלח, אם בשלא התירו לו קודם לרגל אל יגלח", כלומר והרי פשע שלא בא לפני המועד לחכמים להתיר לו (וכדברי התוס'). ומשני: "כי נן קיימין כשהתירו לו קודם לרגל וחל יום שלשים שלו להיות ברגל

לקבוע מדרש. ואי סבירא ליה הרב דההיא דמסכת סנהדרין דאמר באותה שעה גזרו על תלמיד שלא יורה הוראה אלא א"כ נטל רשות מרבו מיירי ואפי' בזמן הזה, א"כ<sup>10</sup> יתן להורות בדבר שנקרה מקרה, ואפי' היה בדבריו שאסור להורות, מנין לו שאסור לקבוע מדרש בחיי רבו ואפי' בעיר רבו, וכ"ש אם נתחזק מרבו ג' פרסאות.<sup>11</sup>

**פרק ששי [ה"ד]. [על כ"ד דברים מנדין את האדם וכו'], המנדה מי שאינו חייב נידוי.**

ובלבד שיהיה זה שאינו חייב נידוי ת"ח, אבל אם אינו ת"ח למה יהיה חייב נידוי המנדה; הלא אם ביזה התלמיד חכם לעם הארץ ככל הבזיונות שבעולם אין מנדין הת"ח, אם נדה הת"ח לעם הארץ למה מנדין אותו. ומההיא דר"ל<sup>12</sup> ליכא להביא ראייה, דשמא נדה ת"ח גדול ממנו. וכן נראה מן ההלכה שהצריכוהו ללכת

הערך העליון והמוחלט, העולה על כל שאר הערכין, ולא ניתן להערכה ולהבחנה בין חיים של יחיד וחיים של רבים ובין נפש אחת ונפשות רבות. כי פירושו של הערך „המוחלט“ הוא שאין ערך עליון ממנו; ואם יהא ניתן להערכה של שיעור ומספר ולהבחנה בין רבים ויחיד, נמצא שהערך העליון והמוחלט תלוי בערך העולה עליו, והרי הוא כשני הפכים בנושא אחד.

סוף דבר, דעתו של הת"ק בתוספתא, שכמותו פסק הרמב"ם, היא שהציווי המוחלט „לא תרצח“ לא ניתן לשעורין ולהערכה ואינו תלוי כלל בתוצאותיו, ואסור למסור נפש אחת מישראל לעכו"ם ליהרג אפי' במקום שמתוך כך יגרמו שיהרגו רבים. דברי אלו נאמרו כהוספת באור לשיטת הרמב"ם ולהשיב מתוך כך לקושי הרמ"ך עליו, שהכ"מ התקשה ביישובה. וז"ל הכ"מ שם: „ש"ש דבשפיכת דמים סברא אינו עיקר הטעם, דקבלה היתה בידם דשפיכת דמים יהרג ואל יעבר אלא שנתנו טעם מסברא להיכא דשייך, אבל אין ה"נ דאפילו היכא דלא שייך האי טעמא הוי דינא הכי דיהרג ואל יעבר“. לדעת הכ"מ אין לקושי הרמ"ך כל תוקף משום דדין זה של יהרג ואל יעבר בשפיכת דמים הוא לא מסברת רבא, אלא עפ"י קבלה. אולם עפ"י באורנו בסברת רבא, שהוא קובע בזה את העקרון של הערך העליון והמוחלט, שייך האי טעמא של „דמאי חזית וכו'“ אפילו במקום שחיי רבים תלויים בזה, ואפי' רבים יהרגו ואל יעברו ולא ימסרו נפש אחת מישראל.

<sup>9</sup> דף ה' ב'.

<sup>10</sup> ג"ל שצריך לגרוס כאן „לא“; כלו' אם סובר הרמב"ם דהא דגזרו על תלמיד שלא יורה הוראה א"כ נטל רשות מרבו הוא אפי' בזמן הזה, א"כ לא יתן רשות להורות אפי' בדבר שנקרה מקרה, והרמב"ם הרי כתב שאם ראה אדם עושה דבר האסור וכו' יש לו להפרישו ולומר לו דבר זה אסור ואפי' בפני רבו, ואע"פ שלא נתן לו רבו רשות. ואפשר גם לגרוס „למה יתן“.

<sup>11</sup> סנהדרין, שם: תלמיד אל יורה הלכה במקום רבו א"כ היה רחוק ממנו שלש פרסאות. ועי' כ"מ שהביא רק את סוף דברי הרמ"ך האלה ולא את ראשיתם.

<sup>12</sup> מועד קטן, י"ז א': ריש לקיש הוה מנטר פרדיסא אתא ההוא גברא וקאכיל תאיני, רמא ביה קלא ולא אשנח ביה, אמר ליהוי ההוא גברא בשמתא, א"ל אדרבא ליהוי ההוא גברא בשמתא אם ממון נתחייבתי לך נידוי מי נתחייבתי לך? אתא לבי מדרשא א"ל שלו נידוי שלך אינו נידוי וכו'.

רבן בלא רשות רבן, וכל תלמיד שהגיע להוראה ונתרחק מרבו שלש פרסאות יכול

מיתה מדין תורה, ואם לא ימסרוהו בידי יואב האנשים אשר עמו, יהא גם דינם למיתה כמורדים במלכות עפ"י דיני ישראל.

אמנם דברי הת"ק בתוספתא: "אבל אם ייחרוהו להם כגון שיחרו לשבע בן בכרי" יש להשוואה זו מעם ויסוד הגיוני רק אם אין דינו של שבע בן בכרי כמורד במלכות, שחייב מיתה מדין תורה, שכן אם היה דינו כמורד במלכות, גם האנשים אשר עמו דינם כמורדים במלכות. ומתוך השוואה זו של "סיעה בני אדם וכו'" עם מעשה שבע בן בכרי שבתוספתא יש להביא ראיה נוספת, שפירוש הדברים במחלוקת ר' יוחנן ור"ל בירושלמי הוא, שלדעת ר"ל, האומר "והוא שיהא חייב מיתה", פירושו שיהא חייב מיתה עפ"י חוקי המלך, (כלומר מלך עכו"ם כי האי עובדה של ריב"ל בירושלמי, או מלך ישראל שלא נתקבל עדיין למלך ע"י כל העם), כשבע בן בכרי" שהיה חייב מיתה עפ"י פקודת דוד במלחמתו עם המתקוממים נגדו; ולדעת ר' יוחנן האומר "אע"פ שאינו חייב מיתה", כלומר שאינו חייב מיתה בדיני ישראל, כשבע בן בכרי" שלא היה חייב מיתה מדין תורה כמורד במלכות, אלא רק עומד למיתה ע"י יואב וצבאו. אבל לדעת כולם אין לפרש את שיטת הת"ק בתוספתא, שדינו של שבע בן בכרי היה כמורד במלכות בית דוד, שחייב מיתה מדין תורה, כי אז גם דינם של האנשים אשר עמו הוא כדין מורדים במלכות בית דוד, אם לא ימסרוהו בידי יואב, ואין להשוות את מעשה שבע בן בכרי עם "סיעה של בני אדם וכו'". ואשר לקושית הרמ"ך על הרמב"ם, שהרי מעם הדין של יהרג ואל יעבור בשפיכת דמים הוא משום "רמאי חזית דרמא דידך סומק טפי וכו'" (יומא, פ"ב ב'; פסחים, כ"ה ב'), והכא ליכא האי סברא דהא יהרגו כולם והוא עצמו, מוטב שיהרג הוא עצמו ואל יהרגו כולם, נראה שעיקר הדין של יהרג ואל יעבור בשפיכת דמים הוא משום שהלאו של "לא תרצח" הוא ציווי מוחלט שלא ניתן לשעורין ולהערכה ואינו תלוי בתוצאות של קיום המצוה הכלולה בלאו זה. ואפי' אם ע"י קיום הציווי של "לא תרצח" יהרגו רבים, אל ימסרו נפש אחת מישראל, כי הציווי הוא מוחלט ולא ניתן להערכה עפ"י תוצאותיו. והטעם שנתן רבא לשואלו "רמאי חזית דרמא דידך סומק טפי" לא נאמר אלא כדי לבאר בסברה שאין בשפיכת דמים לקיים את הכלל "וחי בהם ולא שימות בהם", כי החיים שהגיע האדם אליהם ע"י שפיכת דמים וכתוצאה ממיתת חבירו אינם חיים. ואפי' אם ע"י מיתת אחד מהם ינצלו רבים, חיי הרבים שניתנו להם בשפיכת דמים של חבירם אינם חיים.

כי אין פירוש הרברים "רמאי חזית וכו'", שעלינו להעריך את חיי הרוצח ואת חיי הנרצח ולהעמידם זה לעומת זה ומתוך כך להחליט, כי הואיל ובין כך ובין כך יש כאן איבוד נפש אחת, אין לאדם להציל את נפשו בשפיכת דמים של חבירו. כי עפ"י באור זה בסברת רבא, שעלינו להעריך את תוצאות הפעולה של שפיכת דמים ועל פיהן להחליט אם יש לקיים בו את הכלל "וחי בהם ולא שימות בהם", יתחייב שאם ע"י איבוד נפש אחת יש להציל נפשות רבות, חיי הרבים עולים על חיי היחיד, ועל הרבים למסור נפש אחת מישראל לעכו"ם ולהציל את עצמם, וכדברי הרמ"ך: מוטב שיהרג הוא עצמו ואל יהרגו כולם. אולם סברת רבא היא, לדעתי, לאמר שהחיים הם הערך העליון והמוחלט שלא ניתן לשעורין ולהערכה עפ"י תוצאותיו, ואפי' חיי רבים לא ניתנו להצלה ע"י שפיכת דמים של נפש אחת, כי אין לקיים בזה את הכלל "וחי בהם ולא שימות בהם" במקום ש"וחי בהם" הוא כתוצאה הכרחית משפיכת דמים. אמנם בשאר מצוות התורה מותר לעבור עליהן בשעת סכנה ופיקוח נפש עפ"י העקרון הזה של "וחי בהם וכו'", שפירושו הוא שהחיים הם הערך העליון שכל הערכים נכנעים לו ובטלים בפניו. אבל החיים עצמם מהווים את

לא ידעתי מאין הוציא זה, ובאלו המקומות נהגו התלמידים לקבוע מדרש בחי

(כמעשה שבע בן בכרי), ואפשר שיתייאשו מלכבשה, והוא ינצל. לפי דבריו דינו של ר' יהודה תלוי בעיקר בזה אם אפשר להמבוקש להנצל או לאו. אמנם מנוסח הרברים „הואיל והוא נהרג והן נהרגים” נראה שבעיקר תלוי הדבר במצב אשר בו נמצאים הנדרש לעכו"ם והאנשים אשר עמו, כלומר אם הוא נהרג בין כך ובין כך והם נהרגים עמו כשלא ימסרוהו. והרגומא ממעשה שבע בן בכרי אינה הולמת את ראשית דברי ר' יהודה „כשהוא מבפנים והן מבהוין”, כי את שבע בן בכרי, שהיה מבפנים ואנשי יואב מבהוין, מסרו אנשי העיר, ור' יהודה סובר שבאופן כזה אין מוסרין אותו. אמנם לדעתי ר' יהודה הוכיח ממעשה של שבע בן בכרי לסוף דבריו. בזמן שהוא מבפנים והם מבפנים, ואע"פ שאנשי יואב היו מבהוין, אבל הואיל והוא נהרג בין כך ובין כך, והאנשים אשר עמו ייהרגו ג"כ אם לא ימסרוהו, הרי הוא כמו „הוא מבפנים והם מבפנים”. ועי' גם בבאורו הארוך של הח' הנ"ל, תוספתא כפשוטה, ח"א עמ' 421 והלאה, שם הוא מפרש שר' יהודה לא בא לחלוק על ראשית דברי התוספתא בלא ייחרוהו שאין מוסרים את המבוקש „אלא חולק על ייחרוהו דוקא שמצריך הת"ק שיהא חייב מיתה כשבע בן בכרי, אבל אינו חייב מיתה אין מוסרים אותו, ועי' אמר ר' יהודה שאפילו אינו חייב מיתה מוסרין אותו כשכולם נהרגים”. לפי דבריו ר' יהודה מפרש את דברי הת"ק בייחרוהו שיהא חייב מיתה כשבע בן בכרי. אבל הרי בזה נחלקו ר' יוחנן ור"ל בירושלמי, אם פירוש הרברים „כשבע בן בכרי”, הוא שיהא מחויב מיתה כשבע בן בכרי, או אינו אלא רק שייחרוהו כשבע בן בכרי, ואם מדברי ר' יהודה יוצא שהת"ק מצריך בייחרוהו שיהא מחויב מיתה, קשה לעמוד על דעתו של ר' יוחנן, שהוא מפרש את דעת הת"ק שאינו מצריך בייחרוהו שיהא מחויב מיתה. ובהכרח עלינו לאמר שר' יוחנן פירש את דעתו של ר' יהודה באופן אחר. ועוד אף זו: אם נאמר שר' יהודה מודה בלא ייחרוהו, שאין מוסרים את המבוקש, אפי' אם הוא והאנשים אשר עמו נהרגים, דעתו של הרמ"ך בהשגתו על הרמב"ם תלויה על בלימה, כי אין לה על מי לסמוך. ומכאן ראייה לפירושו בדברי ר' יהודה, שהוא חולק על הת"ק אפילו בלא ייחרוהו, ודעתו היא שמוסרים את הנדרש לעכו"ם אם הוא והם נהרגים. ודעת הרמ"ך יסודה איפוא בדברי ר' יהודה. והרי הר"ש ליברמן בעצמו כותב שם: „ומסתברים דברי הר"ח אבולעפאי שהרמ"ך תמה אף על דברי הת"ק שבתוספתא, למה לא אמר כר' יהודה”, ודעת הרמ"ך היא, שבכל מקום שאין לקיים את סברת רבא „מאי חזית וכו'” מוסרים את הנדרש לעכו"ם, והוא הדין אפי' בלא ייחרוהו אם הוא והם נהרגים. ומעתה אין לפרש שר' יהודה חולק רק על ייחרוהו.

ואשר לדעת ר' שמעון בסוף התוספתא: „ותבא האשה אל כל העם וכו'”, כך אמרה להם כל המורד במלכות בית דוד חייב מיתה, כלומר שבע בן בכרי חייב מיתה מדין תורה, אין, לדעתי, לאמר שר"ש סובר כדעת הת"ק בתוספתא (כדעת הח' המהבר על התוספתא כפשוטה, שם: „ור"ש להלן אינו חולק על הת"ק אלא סובר כמותו”). שכן אם דינו של שבע בן בכרי הוא כמורד במלכות, שחייב מיתה מדין תורה, יהא גם דינם של האנשים אשר עמו ואנשי העיר כמורדים במלכות אם לא ימסרו את המורד בידי יואב וצבאו. ולפי"ז אין להשוות את המאורע של שבע בן בכרי עם דברי הת"ק שדנו ב„סיעה של בני אדם שאמרו להם גויים תנו לנו אחד מכם וכו'”, שלא באו בכח המלך והחוק, והשאלה היא רק אם מותר להם להנצל עי"ז שימסרו את המבוקש לעכו"ם. ואפשר שבאופן כזה דעת ר"ש היא שאסור להם למסור את המבוקש אפילו בייחרוהו. ואין להביא ראייה לדין זה ממעשה של שבע בן בכרי, שהיה מורד במלכות, לפי דעתו של ר"ש, וחייב

העולם ורבו בסוף העולם] אסור לו להורות עד שימות רבו אלא א"כ נטל] רשות מרבו, וכו'.

מיתה עפ"י דיני ישראל, והסברה מחייבת, שמותר למסור את המחויב למיתה מדין תורה אפי' אם לא ייחרוהו ולהציל מתוך כך את הציבור כולו, הואיל ודינו של הנתבע לעכו"ם הוא למיתה גם עפ"י דיני ישראל. ועוד מה פירוש דברי הרמב"ם בסופם, ואין מורין להם כן לכתחילה, אם זה שייחרוהו בן מות הוא מדין תורה?

וקושת הרמ"ך נראה שמוסבה היא על ראשית הדברים בתוספתא, שם נאמר שאם לא ייחרוהו אל ימסרו נפש אחת מישראל, שכן פסק הרמב"ם; ולא כפ' הכ"מ שקושיתו היא על סוף דברי הרמב"ם שפסק, שגם בייחרוהו אין מוסרים את הנדרש להם אלא אם הוא חייב מיתה כשבע בן בכרי. שהרי סברת הרמ"ך היא שאין טעמו של רבא (מאי חזית דרמא רידך סומק טפי וכו') שייך במקום שיש להציל נפשות רבות עי"ז שימסרו את היחיד הנדרש לעכו"ם, ולפי סברה זו אין להבחין בין ייחרוהו ללא ייחרוהו. ושיטת הרמ"ך היא איפוא כדעת ר' יהודה בתוספתא, שם שנינו: אמר ר' יהודה במה דברים אמורים בזמן שהוא מבפנים והן מבחוץ אבל הוא והם מבפנים הואיל והוא נהרג והן נהרגין יתנוהו להם ואל יהרגו כולם, כגון שהוא אומר ותבוא האשה אל כל העם בחכמתה אמרה להם הואיל והוא נהרג והם נהרגין תנוהו להם ואל תיהרגו כלכם. ופ' הדברים הוא כנראה: בד"א שאין מוסרים נפש אחת מהן לעכו"ם בזמן שהוא מבפנים העיר, כלומר הנדרש להם, והצרים עליהם הם מחוץ לעיר, שלא ניתנו עדיין לכלייה וראית, כלומר הנדרש להם והאנשים אשר עמו, ועי"ז שלא ימסרו אותו בידיהם הם רק יסכנו את עצמם אבל אפשר שינצלו עוד. אבל הוא והם מבפנים, כלומר בזמן שהם נתונים כבר בידי הצרים עליהם לחיים ולמות באין תקוה להצלה, ובידי העכו"ם לעשות בהם כחפצם, אז מותר להם למסור נפש אחת מישראל בכרי להציל את הציבור, שהרי הנדרש לעכו"ם יהרג אפי' אם לא ימסרוהו בידיהם. נמצא שר' יהודה מבחין בין מצב של ספק סכנה לציבור, ואפשרות של הצלה בצידה, ובין מצב של אפס דים ותקוה להנצל מידי האויב לכל הציבור כולו. אמנם סוף דברי ר' יהודה בתוספתא צריך באור, ועפ"י פירושו ברעתו, סוף הדברים יוכיחו על תחילתם. כי לכאורה אין ראייה מן הפסוק: ותבוא האשה אל כל העם בחכמתה (שמואל ב' כ', כ"ב) וכו', והרי שבע בן בכרי היה מבפנים העיר ויואב ואנשי צבאו היו מבחוץ, ולדעת ר' יהודה אין למסור נפש אחת מישראל במצב כזה, והוא ממש ההיפך מדברי ר' יהודה. אין זאת אלא שבעיקר דעתו היא, שיש להבחין בין מצב של ספק סכנה לציבור, כשיש עוד תקוה להצלה, ובין מצב של כלייה וראית באין תקוה להצלה. ולפי"ז פ' הדברים הוא: "בחכמתה" כלומר היא הוכיחה לאנשי עירה, שאין תקוה לנצחון במלחמתם עם יואב ואנשי צבאו ואין לצאת מן המצר, והרי הם כנתונים בידיהם, וע"כ אמרה, תנוהו להם ואל תיהרגו. ומאחר שמצב הדברים דומה למצב של הוא והם מבפנים בדברי ר' יהודה עפ"י הנימוק שברבריו, הואיל והוא נהרג והם נהרגים, הביא ר' יהודה ראייה לשיטתו מפסוק זה. ולפי"ז ר' יהודה חולק על ראשית דברי התוספתא, שם נאמר שאם לא ייחרוהו אין מוסרים נפש אחת מישראל, והוא בא להוסיף ולאמר שאם הם נמצאים בידי הצרים, והם כולם נהרגים אם לא ימסרוהו והנדרש להם נהרג בין כך ובין כך, עליהם למסור את הנדרש לעכו"ם.

ועי' בתוספתא עפ"י כת"י וינה, שהו"ל הר"ש ליברמן, עמ' 149, שכתב בפירושו הקצר: והן מבחוץ וכו', כלומר שהוא בפנים החומה, והצרים על העיר הם מחוץ לחומה



## הלכות תלמוד תורה

פרק חמישי [ה"ג]. [בד"א בדבר שנקרה מקרה, אבל לקבוע עצמו להוראה ולישב ולהורות לכל שואל] אפי' הוא בסוף

כמורד במלכות שחייב מיתה מדין תורה. והרי עובדה היא שרק ר' שמעון בתוספתא שם בסופה אמר: "ככה אמרה להם כל המורד במלכות בית דוד חייב מיתה". וזו היא רק דעת יחיד. והוא משום שרוד עוד לא נתקבל למלך ע"י העם כולו, ומרדו של שבע בן בכרי היה בתקופת מעבר שבין מלכות שאול ומלכות בית דוד, טרם נתחזקה מלכותו של דוד על כל שבטי ישראל. וכאשר עלה, כל איש ישראל מאחרי דוד אחרי שבע בן בכרי" שמואל ב', כ', ב', אין לדון את שבע בן בכרי כמורד במלכות שחייב מיתה בדין תורה. ועוד אף זו: במחלוקת ר' יוחנן ור"ל בירושלמי קשה לעמוד על דעתו של ר' יוחנן. והרי מחלוקתם זו של ר' ור"ל נאמרה על התוספתא, שהובאה גם בירושלמי, שמפורש נאמר בה "ייחרו להם אחד כגון שבע בן בכרי", ואיך יחלוק ר"י על התוספתא ויאמר "אע"פ שאינו חייב מיתה כשבע בן בכרי", שהוא בניגוד גמור לדברי התוספתא כפשוטם. וגם קשה לאמר (אע"פ שכן פירשו כמה מפרשים) שהוא מפרש את הרברים "כגון שבע בן בכרי" לאמר שייחרוהו כמו שייחרו לשבע בן בכרי; ראשית, שאין צורך בדוגמא בכדי לבאר את המושג של "ייחרוהו" שהוא די פשוט ומובן לכל; ושנית, היתכן שהתוספתא תתן דוגמא כזו שיש לטעות על ידה ולאמר שאין מוסרים את המבוקש אלא במקום שהוא חייב מיתה כשבע בן בכרי, ובמקום להבהיר את הענין ע"י הדוגמא הוא מסתבך עוד יותר. וע"כ דעתי היא, שר' יוחנן סובר שאין לדון את שבע בן בכרי כמורד במלכות שדינו למיתה עפ"י משפט התורה, משום שמלכותו של דוד עוד טרם נתקבלה ע"י העם וכל איש ישראל הלכו אחרי שבע בן בכרי. ולפי"ז ר"י מפרש את דברי התוספתא "כגון שבע בן בכרי" לאמר שהוא עומד למות, כי בודאי יתפסדו אנשי יואב ויהרגוהו, כיון שאין בידי בני ישראל ובידי אנשי העיר לעמוד בפני יואב ואנשי מלחמתו. ולפי"ז פי' דברי ר"י במחלוקתו עם ר"ל הוא: "אע"פ שאינו חייב מיתה", כלומר בדין תורה; "כגון שבע בן בכרי", כלומר שאין דינו כמורד במלכות שחייב מיתה עפ"י דיני ישראל, אלא רק שהוא עומד להתפס וליהרג ע"י יואב ואנשיו.

ודעת ר"ל בירושלמי האומר "והוא שיהא חייב מיתה כשבע בן בכרי" אפשר לבאר בשני אופנים. א', שהוא בא רק להדגיש שאין מוסרים את הנדרש לעכו"ם אלא רק במקום שהוא עומד למיתה ודאית, ולפי"ז לא בא לחלוק על ר' יוחנן. וב', אפשר שדעתו היא שאין מוסרים את הנדרש לעכו"ם אלא רק כשהוא מחויב מיתה בדיני ישראל, ולפי"ז הוא בא לחלוק על ר"י.

ומעתה יש מקום גם לפרש את דברי הרמב"ם בפסקו "אם היה מחויב מיתה כשבע בן בכרי", שאין כוונתו לאמר שהוא מחויב מיתה בדיני ישראל, אלא שהוא עומד למיתה כשבע בן בכרי. וסוף הדברים "כשבע בן בכרי" מוכיח על תחילתם, כלומר הם באו להגביל את המושג "מחויב מיתה" בנידון דידן, שאין כוונתו מחויב מיתה עפ"י דיני ישראל, אלא רק עומד למיתה. ולפי"ז פסקו של הרמב"ם הוא כר' יוחנן ולא כר"ל. יודע אנכי שפירוש זה מתנגד לדעה המקובלת בין גדולי המפרשים, ומ"מ אני מציע את דברי אלה המיוסדים בסברה ובהבנת המקורות של התוספתא והירושלמי, כי בלעדיהם נסתבך בהרבה קושיים שאין ליישבם. כי היתכן לאמר שאם ייחרוהו אין מוסרים אותו אלא אם הוא מחויב

דדמא דידך סומק טפי וכו' והכא לייכא האי סברא דהא יהרגו כולם והוא עצמו, ומוטב שיהרג הוא עצמו ואל יהרגו כולם והוא עצמו, וצ"ע.<sup>8</sup>

<sup>8</sup> כוונתו לתוספתא תרומות, ספ"ח: סיעה של בני אדם שאמרו להם גוים תנו לנו אחד מכם ונהרגו אותו ואם לאו הרי אנו נהרגו את כולם, יהרגו כולם ולא ימסרו נפש אחת מישראל, ואם ייחרוהו להם, כגון שייחרוהו לשבע בן בכרי, יתנוהו להם ואל יהרגו כולם וכו'. ועי' בכ"מ שהביא את דברי הרמ"ך האלה ומפרש את דעתו שקושיתו היא אינה על ראשית דברי התוספתא כשלא ייחרוהו אלא על ריש לקיש שמפרש בירושלמי תרומות, ספ"ח, שגם בייחרוהו להם אין מוסרים אותו אלא אם היה מחויב מיתה כשבע בן בכרי, שהרמב"ם פסק כמותו. ועיי"ש מה שהשיב עליו. ואשר לדעת הרמב"ם שפסק בזה כר"ל נגד ר' יוחנן, האומר שם בירושלמי שבייחרוהו להם מוסרים אותו אפי' אינו מחויב מיתה, דהלכתא כוותיה לגבי דריש לקיש (עי' מראה הפנים בירושלמי שהוכרח לתרץ ולאמר, שהרמב"ם גירסא אחרת היתה לו, וגרים הא דר"י בר"ל והא דר"ל ברד"י), הוא משום שיש להוכיח כן מסוף הסוגיא בירושלמי. שם מסופרת עובדא בהאי בר נש, תבעתיה מלכותא וערק ואול ליה ללוד גבי ר' יהושע בן לוי, ובאו אנשי המלך אל העיר ואיימו להחריבה ולהרגם אם לא ימסרוהו בידיהם. ופייסיה ויהביה לון, כלומר ריב"ל פייס את אשר בקשוהו אנשי המלך ומסרוהו לידם. והיה רגיל אליהו להתגלות לריב"ל, ומאו ואילך לא אתגלי ליה, וצם כמה תעניות עד שהתגלה אליו שוב, וא"ל: ולמסורת אני נגלה? א"ל ריב"ל: ולא משנה עשיתי? א"ל: ורו משנת חסידים? ע"כ דברי הירושלמי. מהדברים, תבעתיה מלכותא נראה שהיה מחויב למיתה, ואעפ"כ אין זו דרך חסידים למסרו בידי עכו"ם. ומכאן יש להוכיח שבאינו מחויב למיתה אסור למסרו בידי עכו"ם אפי' בייחרוהו, והיינו כר"ל. אמנם בכ"מ כתב בטעם הרמב"ם שפסק כר"ל, "משום דהוי ספק נפשות ולהחמיר שלא ימסרנו בידיהם ביד העכו"ם". וקשים הרברים, ראשית דא"כ בכל מחלוקת תנאים ואמוראים בתלמוד ברין נפשות נדין להחמיר, ואפי' במקום שאין זה עפ"י כללי ההלכה, כגון בנידון דירין שהכלל הוא שההלכה היא כר"י לגבי ר"ל; ושנית, מה חומרה היא זו, והרי עיי"ש שלא ימסרו את המבוקש שייחרוהו יסכנו את הציבור כולו. אין זאת אלא שהרמב"ם פסק כר"ל עפ"י מסקנת הרברים בירושלמי. והוסיף עוד שאין מורין לכתחילה למסור את המחויב למיתה כדברי הירושלמי, שאין זו משנת חסידים.

אכן יש להבחין בין העובדה בירושלמי ובין פסקו של הרמב"ם, שכן האי בר נש אשר, תבעתיה מלכותא נתבע למיתה עפ"י דיני עכו"ם, והרמב"ם פסק שאין מוסרין בידי עכו"ם אלא את המחויב למיתה כשבע בן בכרי, כלומר מחויב למיתה בדיני ישראל, ואין הנידון דומה לראיה. אולם נראה שדעת הרמב"ם היא שעלינו להתחשב רק עם תנאי המציאות בלבד, אם זה שייחרוהו עומד למיתה, ואפי' בדיני עכו"ם, יש לחשבו כגברא קטילא ומוסרים אותו בידיהם כרי מתוך כך להציל את הציבור. כי הואיל ואי אפשר להצילו, ובין כך ובין כך הוא עומד להתפס ובן מות הוא, אין לסכן את הציבור בגינו ומותר למסרו בידיהם. ויש מקום לאמר שגם שבע בן בכרי נחשב כבן מות רק עפ"י תנאי המציאות בלבד. כי אע"פ שהיה מחויב למיתה כמורד למלכות, הרי לא תפסוהו עדיין וטרם עמד ברין. ועפ"י דיני התלמוד אינו נחשב כגברא קטילא ברין טרם שנגמר דינו (עי' מכות, ה' א'). אין זאת אלא הואיל והוא עומד להתפס ובוראי ידונו אותו למיתה, יש לחשבו כגברא קטילא עפ"י תנאי המציאות. ומעתה אין להבחין בין האי עובדא בירושלמי ובין שבע בן בכרי.

יתר על כן: לדעתי נראה שדעת חכמי התלמוד היא שאין לדון את שבע בן בכרי

[ה"ד]. וכל מי שנאמר בו יהרג ואל יעבור [ועבר ולא נהרג ה"ז מחלל את השם וכו' ואעפ"כ מפני שעבר באונס אין מלקין אותו ואין צ"ל שאין ממיתין אותו ב"ד אפי' הרג באונס שאין מלקין וממיתין אלא לעובר ברצונו] ועדים והתראה.

תמיהא לן הא דאמרין במתניתין הפוער עצמו לפעור זהו עבודתו וחייב מיתה,<sup>4</sup> ומוקי לה בגמרא<sup>5</sup> אע"ג דמכוין לבזווי, וההוא ודאי מוטעה הוא, אעפ"י שקבל עליו התראה דסבור שהתראתם בטלה ואעפ"י כן חייב, והכי נמי אם עבד ע"ז באונס והתרו בו חייב מיתה. וההיא דעובד ע"ז מאהבה ומיראה<sup>6</sup> מפרשי לה רבני צרפת בע"ז שהיא נעבדת מאהבה ומיראה דאפי' הגוים אין מקבלים אותה כאלוה כצלמו של נבוכדנצר, וצ"ע.

ומה אם ע"ז שהיא חמורה מן הכל [העובד אותה באונס אינו חייב כרת, ואין צ"ל מיתת ב"ד, ק"ו לשאר מצות וכו'].<sup>7</sup>

נראה כי זה ק"ו פריכא, דכרת לא מחייב דרחמנא ליבא בעי ואי לא מקבליה עליה כאלוה לא כלום הוא, אבל מיתת ב"ד שהיא בעדים והתראה כיון שעבדה אחר שהתרו בו חייב כדאמרין הפוער עצמו לפעור חייב זהו עבודתה ואע"ג דמכוין לבזויה.<sup>7</sup>

[ה"ה]. אמרו להם הגויים וכו' נפש מישראל. [נשים שאמרו להם עכו"ם תנו לנו אחת מכם ונטמא אותה, ואם לאו נטמא את כולן יטמאו כולן וכו' ואל ימסרו להם נפש אחת מישראל].  
אע"פ שנמצא בתוספתא כמו שכתב הוא, לא ידענא טעמא מאי, דהא אמרינן בגמרא דמשום הכי אמרינן בשפיכת דמים דיהרג ואל יעבור דסברא הוא מאי חזית

<sup>4</sup> משנה סנהדרין, ס' ב'. וכן פי' רש"י: וזהו עבודתו וחייב עליו מיתה. ונראה שהרמב"ם פי' את דברי המשנה לענין חטאת. ועי' בר"ע מברטנורה שכתב: הואיל זו היא עבודתו חייב חטאת. ועיי"ש בתיו"ט. אבל מתוס', שם ס"ד א', ד"ה אע"ג, נראה שפירשו את המשנה לענין חיוב מיתה וכדברי הרמ"ך.

<sup>5</sup> סנהדרין, ס"ד א'; אבל בתוס' שם פירשו דמכוין לבזווי חייב רק כשמכוון לעובדה בכך, דבלא"ה אפילו עובד מאהבה ומיראה פטור לרבא שם, ס"א א'. ועי' בכ"מ שמביא את דברי הרמ"ך האלה וחקשה עליו, ועי' גם בלח"מ.

<sup>6</sup> מחלוקת רבא ואביי בסנהדרין, ס"א ב'; ודעת רבא האומר פטור העובר מאהבה ומיראה לכאורה סותרת את דברי הגמ' אע"ג דמכוין לבזווי דחייב, וע"כ מפרש רבינו את דעת רבא בע"ז שאין מקבלים אותה כאלוה. ועי' שם תר"ה רבא שפירשו כמו כן: שהכל עובדים מאהבה ומיראה דומיא דהמן וכו'. והרמב"ם פי' מאהבה, כלומר מאהבת הדבר עצמו כגון שהשק בצורה זו מפני מלאכתה שהיתה נאה" (פ"ג מהל' עכו"ם, ה"ו), זאת אומרת העובר וחושק את הדבר משום פיו ואמונתו כאומן האוהב ומעריך את היופי שבמלאכתו. וזהו פירוש יפה מאד. אבל הרמ"ך תפס כפי' רש"י והראב"ד שם בהשגתו: מאהבת אדם ומיראת אדם.

<sup>7</sup> עי' בכ"מ ובלח"מ.

# השגות שהשיג הרב ר' משה הכהן מלוניל על ספרי רבנו משה ז"ל\*

י"ל בהערות והנהגות מאת

שמואל אטלס

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## ספר המדע: הלכות יסודי התורה

פרק חמישי [ה"א]. כל בית ישראל מצווין על קידוש השם וכו'. [ה"ב. בד"א בשאר מצוות חוץ מעכו"ם וגלוי עריות ושפיכת דמים, אבל שלש עבירות אלו אם יאמר לו עבור על אחת מהן או תהרג, יהרג ואל יעבור. בד"א בזמן שהעכו"ם מתכוין להנאת עצמו כגון שאנסו לבנות לו ביתו בשבת או לבשל לו תבשילו] או אנס אשה לבעלה.

תמה למה לא ערב גילוי עריות עם שאר עבירות, דבגלוי עריות ע"ז ושפיכת דמים אמרינן יהרג ואל יעבור אפי' להנאת עצמן, דהא אין מתרפאין מעצי אשה ואפי' בחולה שיש בו סכנה.<sup>2</sup> ושמא י"ל דמאשה פנויה קאמר כמו שהיתה פנויה לדעת המקשה,<sup>3</sup> וצ"ע.

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\* על הספרים מדע ואהבה והלכות שבת מספר זמנים להרמב"ם, עפ"י כח"י יחידי בעולם אשר בספרי בודליאנא באוכספורד.

<sup>1</sup> המלה "לא" שגיאה היא, כי קושיתו היא למה ערב הרמב"ם ושנה אנסו לנ"ע יחד עם עבירות של חילול שבת.

<sup>2</sup> עי' פסחים, כ"ה א': בכל מתרפאין חוץ מעצי אשירה וכו', לעולם ראיכא סכנה ואפ"ה עצי אשירה לא וכו'.

<sup>3</sup> כוונתו לקושי הגמ' סנהדרין, ע"ה א': מעשה באדם אחד שנתן עיניו באשה אחת וכו' אמרו חכמים ימות ואל תבעל לו וכו' חר אמר א"א היתה וחר אמר פנויה היתה. ושאלה הגמ': בשלמא למ"ד א"א היתה שפיר אלא למ"ד פנויה היתה מאי כולי האי? וכשהשיבה הגמ' ואמרה: ר"פ אמר משום פגם משפחה, רב אחא בריה דרב איקא אמר כדי שלא יהו בנות ישראל פרוצות בעריות, משום טעם זה אמרו חכמים ימות ואל תבעל לו, אבל מ"מ אין בפנויה משום ג"ע שנאמר בו יהרג ואל יעבור כשאנסהו לכך. והרי שם אסרו חכמים אפי' לעמוד לפניו ולספר עמו מאחורי הגדר, שבוודאי אין בזה משום ג"ע אלא רק משום איסור של לא תקרבו לגלות ערוה. ועי' בלח"מ שגם הוא מפרש את דברי הרמב"ם בפנויה על יכור אותה הקושיה עצמה שהקשה הרמ"ך. ועי' גם ב"י סי' קנ"ז.

INDEX TO THE  
HEBREW UNION COLLEGE ANNUALS

VOLUMES I TO XXVI

ABRAHAM, ISRAEL

- The Lost "Confession" of Samuel (I — 1924).  
Pico Della Mirandola (Jubilee — Special, 1925).

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Maimon and Maimonides (XXIII, Part One — 1950-1951).  
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הרצון הציבורי בתחוקה התלמודית (XXVI — 1955).

BAECK, LEO

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Haggadah and Christian Doctrine (XXIII, Part One — 1950-1951).

BAMBERGER, BERNARD

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A Messianic Document in the Seventh Century (XV — 1940).  
Revelations of Torah after Sinai (XVI — 1941).  
Formstecher's History of Judaism (XXIII, Part Two — 1950-1951).



## INDEX

### BAUMGARTNER, WALTER

Zur Mandäerfrage (XXIII, Part One — 1950-1951).

### BENAJANU, MEIR

לחולדות בתי המדרש בירושלים במאה הי"ו (XXI — 1948).

### BERNSTEIN, SIMON

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מִתְּבָרוֹת קֶלֶב בן אליהו אֶפְנֶדוּפֹלוּ הַקָּרְאִי (XXIV — 1952-1953).

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Parallelen der Religionsgeschichte (XXIII, Part One — 1950-1951).

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The Sermons of Judah Muscato (VI — 1929).

The Sermons of Azariah Figo (VII — 1930).

The Sermons of Ephraim Luntshitz (VIII-IX — 1931-32).

The Sermons of Jonathan Eybeshitz (X — 1935).

The Sermons of Jacob Anatoli (XI — 1936).

The Sermons of Isaac Arama (XII-XIII — 1937-38).

The Dubno Maggid (XXIII, Part Two — 1950-1951).

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The Curse, Blasphemy, the Spell, and the Oath (XXIII, Part One — 1950-1951).

Isaiah 52.5 and the Profanation of the Name (XXV — 1954).

"Doeſt Thou Well To Be Angry?" (XXVI — 1955).

### BLAU, JOSEPH L.

An American-Jewish View of the Evolution Controversy (XX — 1947).

## INDEX

### BLAU, LUDWIG

Early Christian Epigraphy Considered from the Jewish Point of View (I — 1924).

Early Christian Archaeology from the Jewish Point of View (III — 1926).

### BLOOMHARDT, PAUL F.

The Poems of Haggai (V — 1928).

### BLUMENFIELD, SAMUEL M.

Towards a Study of Maimonides, the Educator (XXIII, Part Two — 1950-1951).

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Reason and Revelation in the Theology of Maimonides (XX — 1947).

### BUTTENWIESER, MOSES

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The Problem of Inconsequent Post-Dating in II Kings XV.13, 17, and 23 (II — 1925).

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The Maimonidean Code of Benevolence (XX — 1947).

## INDEX

Social Thinking in the *Sefer Ḥasidim* (XXII — 1949).

Social Action in Jewish Lithuania (XXIII, Part Two — 1950-1951).

### DAUBE, DAVID

Rabbinic Methods of Interpretation and Hellenistic Rhetoric (XXII — 1949).

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Du Problème Littéraire au Problème Religieux (XXIII, Part One — 1950-1951).

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Salome Rossi as Composer of Madrigals (XXIII, Part Two — 1950-1951).

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Destruction or Construction? (I — 1924).

Ḳalir Studies (III — 1926).

Ḳalir Studien (IV — 1927).

## INDEX

ENELOW, HYMAN G.

*Midrash Hashkem* Quotations in Alnaqua's *Menorat Ha-Maor* (IV — 1927).

ENGLANDER, HENRY

The Men of the Great Synagogue (Jubilee — Special, 1925).

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FINK, ELIAS

Schriftgeschichtliche Beobachtungen an den beiden Griechischen Buchstaben Γ und X deren sich der Talmud zur Bezeichnung von Gestalten bedient (X — 1935).

## INDEX

### FINKEL, JOSHUA

An Arabic Story of Abraham (XII-XIII — 1937-38).

A Mathematical Conundrum in the Ugaritic Keret Poem (XXVI — 1955).

### FINKELSTEIN, LOUIS

The Transmission of Early Rabbinic Tradition (XVI — 1941).

The Prophetic Readings According to the Palestinian, Byzantine, and Karaite Rites (XVII — 1942-43).

The Origin of the Hallel (XXIII, Part Two — 1950-1951).

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The Origin of the Taḥanun (II — 1925).

The Structure of the Birchos Hashachar (XXIII, Part Two — 1950-1951).

### FRIEDMAN, LEE M.

The First Printed Picture of a Jew (XXIII, Part Two — 1950-1951).

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Mitwirkung von Frauen beim Gottesdienste (VIII-IX — 1931-32).

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הערות והגהות בפירוש הרד"ק לתהלים (מהדורת י"א אסתרסון, HUCA כרך X, ע' 310-443) (XII-XIII — 1937-38).

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Rabbinic Parallels in Early Church Orders (VI — 1929).

### GINSBERG, H. L.

Some Emendations in Psalms (XXIII, Part One — 1950-1951).



## INDEX

### GINSBURGER, M.

Bendel Ahrweiler (IV — 1927).

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Deux Pourims Locaux (X — 1935).

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The Two Versions of Abot de Rabbi Nathan (XIX — 1945–46).

### GOODENOUGH, EDWIN R.

The Menorah Among Jews in the Roman World (XXIII, Part Two — 1950–1951).

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## INDEX

### GUTTMAN, MICHAEL

The Decisions of Maimonides in his Commentary on the Mishna (II — 1925).

The Term "Foreigner" (נכרי) Historically Considered (III — 1926).

### GUTTMANN, ALEXANDER

The Problem of the Anonymous Mishna (XVI — 1941).

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Foundations of Rabbinic Judaism (XXIII, Part One — 1950-1951).

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### HEINEMANN, ISAAC

Die Lehre vom Ungeschriebenen Gesetz im Jüdischen Schrifttum (IV — 1927).

Die Wissenschaftliche Allegoristic des Jüdischen Mittelalters (XXIII, Part One — 1950-1951).

### HEINEMANN, JOSEPH

The Status of the Labourer in Jewish Law and Society in the Tannaitic Period (XXV — 1954).

### HELLER, BERNHARD

"Gott wünscht das Herz": Legenden über einfältige Andacht und über Gefährten im Paradies (IV — 1927).

### HESCHEL, ABRAHAM

Das Wesen der Dinge nach der Lehre Gabirols (XIV — 1939).

גרשון קוטובר (XXIII, Part Two — 1950-1951).

### HONOR, LEO L.

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### HOROVITZ, JOSEPH

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The *Kol Nidre* Tune (VIII-IX — 1931-32).

## INDEX

Traditional Songs of the German (*Tedesco*) Jews in Italy (XI — 1936).  
The *Mogen-Ovos-Mode* (XIV — 1939).

ITALIENER, BRUNO

The Mussaf-Kedushah (XXVI — 1955).

KADUSHIN, MAX

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KAHANA, ABRAHAM

Two Letters from Abraham Firkovich (III — 1926).

KAHLE, PAUL

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KAHLE, PAUL and WEINBERG, T.

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KAYSER, STEPHEN S.

A Polish Torah Crown (XXIII, Part Two — 1950-1951).

KISCH, GUIDO

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KORN, BERTRAM W.

Isaac Mayer Wise On the Civil War (XX — 1947).

Rabbis, Prayers, and Legislatures (XXIII, Part Two — 1950-1951).

## INDEX

### KRAUSS, SAMUEL

- Service Tree in Bible and Talmud and in Modern Palestine (I — 1924).
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- Zu Dr. Mann's Neuen Historischen Texten (X — 1935).
- Nachbemerkung (to the controversy with Dr. Mann) (X — 1935).
- Some Remarks on Daniel 8.5 (XV — 1940).
- The Jewish Rite of Covering the Head (XIX — 1945-46).

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- Jewish Artists Before the Period of Emancipation (XVI — 1941).
- New Studies in Early Jewish Artists (XVIII — 1944).
- Old-Time Torah-Curtains (XIX — 1945-46).
- The Origin of the Winged Angel in Jewish Art (XX — 1947).
- The Washington Haggadah and Its Illuminator (XXI — 1948).
- The House of the People (XXII — 1949).
- The Second Cincinnati Haggadah (XXIII, Part Two — 1950-1951).
- The Origin of European Torah Decorations (XXIV — 1952-1953).
- Old Hanukkah Lamps (XXV — 1954).
- Illuminated Marriage Contracts, With Special Reference to the Cincinnati Ketubahs (XXVI — 1955).

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- The Ceremony of Breaking a Glass at Weddings (II — 1925).
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- The Pharisees and Their Teachings (VI — 1929).
- Tashlik*, A Study in Jewish Ceremonies (XI — 1936).
- The Belief in the Power of the Word (XIV — 1939).
- The Origin and Development of Two Sabbath Ceremonies (XV — 1940).

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- The Jewish Catacombs and Inscriptions of Rome (V — 1928).

### LETSCHINSKY, JACOB

- די עקאנאמישע אנטוויקלונג פון אידנטום אין גאליציע און בוקאיינא (XXIII, Part Two — 1950-1951).

### LÉVY, ISIDORE

- Ptolémée Lathyre et les Juifs (XXIII, Part Two — 1950-1951).

## INDEX

### LEWKOWITZ, ALBERT

Die Bibel und die Juedische Religionsphilosophie der Gegenwart (IV — 1927).

### LEWY, HILDEGARD and LEWY, JULIUS

The Origin of the Week and the Oldest West Asiatic Calendar (XVII — 1942-43).

### LEWY, JULIUS

Lexicographical Notes (XII-XIII — 1937-38).

The Feast of the 14th Day of Adar (XIV — 1939).

Ḥābirū and Hebrews (XIV — 1939).

A New Parallel between Ḥābirū and Hebrews (XV — 1940).

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Tabor, Tibar, Atabyros (XXIII, Part One — 1950-1951).

The Problems Inherent in Section 70 of the Bisutun Inscription (XXV — 1954).

### LEWY, JULIUS and LEWY, HILDEGARD

The Origin of the Week and the Oldest West Asiatic Calendar (XVII — 1942-43).

### LICHTENSTEIN, HANS

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### LIEBREICH, LEON J.

The Benedictory Formula in the Targum to the Song of Songs (XVIII — 1944).

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The Position of Chapter Six in the Book of Isaiah (XXV — 1954).

### LOEWE, RAPHAEL

Jerome's Rendering of עולם (XXII — 1949).

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### LÖW, IMMANUEL

Hā-'iddānā (XI — 1936).

### MAISLER, B.

Beth She'arim, Gaba, and Harosheth of the Peoples (XXIV — 1952-1953).



## INDEX

### MANN, JACOB

- Rabbinic Studies in the Synoptic Gospels (I — 1924).
- Genizah Fragments of the Palestinian Order of Service (II — 1925).
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- Some Passages Bearing on the Date of Second Isaiah (XXIII, Part One — 1950-1951).

## INDEX

MESNIL du BUISSON, Comte du

Les Dieux et Les Déesses en Forme de Vase Dans L'Antiquité Orientale (XXIII, Part Two — 1950-1951).

MIHALY, EUGENE

Isaac Abravanel on the Principles of Faith (XXVI — 1955).

MILLÁS-VALLICROSA, JOSÉ M.

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The Ark, the Ephod, and the Tent of Meeting, Part II (XVIII — 1944).

Psalms 8 and 19A (XIX — 1945-46).

The Chanukkah Festival and the Calendar of Ancient Israel (XX — 1947).

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Two Prophecies from 520-516 B. C. (XXII — 1949).

Isaiah 63.7-4 (XXIII, Part One — 1950-1951).

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The Loss of Words at the Ends of Lines in Manuscripts of Hebrew Poetry (XXV — 1954).

The Decalogue of the Holiness Code (XXVI — 1955).

## INDEX

### MOWINCKEL, SIGMUND

Traditionalism and Personality in the Psalms (XXIII, Part One — 1950-1951).

### NEMOY, LEON

Al-Qirqisānī's Account of Jewish Sects and Christianity (VII — 1930).

### NEUFELD, E.

The Prohibitions against Loans at Interest in Ancient Hebrew Laws (XXVI — 1955).

### NEUGEBAUER, O.

The Astronomy of Maimonides and its Sources (XXII — 1949).

### NEUMAN, ABRAHAM A.

A Note on John the Baptist and Jesus in Josippon (XXIII, Part Two — 1950-1951).

### NEUMARK, DAVID

Saadya's Philosophy (I — 1924).

The Philosophy of Judaism and How It Should Be Taught (Jubilee — Special, 1925).

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The Forms of Prophetism (XIV — 1939).

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Two Elijah Stories in Judeo-Arabic Transmission (XXIII, Part One — 1950-1951).

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The Chaldean Dynasty (II — 1925).

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The Biblical Prepositions *Táḥaṭ*, *Bén*, *Bá'aḏ*, and Pronouns *'Anu* (or *'Anu*), *Zo'tah* (XVII — 1942-43).

Studies in Talmudic Philology (XXIII, Part One — 1950-1951).

Studies in St. Mark's Isaiah Scroll (XXV — 1954).

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The "Control of Rain" in Ancient Palestine (XIV — 1939).

Hebrew Installation Rites (XX — 1947).

### PHILIPSON, DAVID

Some Unpublished Letters of Theological Importance (II — 1925).

The History of the Hebrew Union College (Jubilee — Special, 1925).

## INDEX

Personal Contacts with the Founder of the Hebrew Union College (XI — 1936).

Max Lilienthal in Russia (XII-XIII — 1937-38).

### PLAUT, GUENTHER

Two Notes on the History of the Jews in America (XIV — 1939).

The Origin of the Word "Yarmulke" (XXVI — 1955).

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Die Klage Marduks Ueber Babylon im Irra-Epos (XXIII, Part One — 1950-1951).

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A Suggestion as to the Sequence of Some Prophecies in the First Isaiah (I — 1924).

Notes on Parallelism (II — 1925).

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Moses Ibn Ghiquitilla as Poet (I — 1924).

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מלואים לקטע ממדרש אלמוני על דברים (XXV — 1954).

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War Nachman Krochmal Hegelianer? (V — 1928).

### REIDER, JOSEPH

Studies in Hebrew Roots and Their Etymology (II — 1925).

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Some Notes on the Text of Scriptures (III — 1926).

The Present State of Textual Criticism of the Old Testament (VII — 1930).

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Contributions to the Scriptural Text (XXIV — 1952-1953).

### RIVKIN, ELLIS

**The Sermons of Leon da Modena** (XXIII, Part Two — 1950-1951).

### ROSENAU, WILLIAM

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### ROSENTHAL, FRANZ

A Judaeo-Arabic Work Under Sufi Influence (XV — 1940).

Yom Tob (XVIII — 1944).

## INDEX

- A Jewish Philosopher of the Tenth Century (XXI — 1948).  
Sedâkâ, Charity (XXIII, Part One — 1950-1951).
- ROSENTHAL, JUDAH  
שאלות עתיקות בתנך (XXI — 1948).
- ROTENSTREICH, NATHAN  
פרקים בפולמוס האמנציפציה (XXV — 1954).
- ROTH, ABRAHAM NAPHTALI ZEVI  
ספר הלכות מלוה ולוה המיוחס בטעות לזכריה פולייסי (XXVI — 1955).
- ROTH, CECIL  
The Memoirs of a Siennese Jew (V — 1928).  
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The Strange Case of Hector Mendez Bravo (XVIII — 1944).  
European Jewry in the Dark Ages, a Revised Picture (XXIII, Part Two — 1950-1951).
- ROWLEY, H. H.  
Jewish Proselyte Baptism (XV — 1940).  
The Unity of the Book of Daniel (XXIII, Part One — 1950-1951).
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La Sacrifice  $\overline{DBH}$  Dans Les Inscriptions Șafaitiques (XXIII, Part One — 1950-1951).
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Philo's Place in Judaism, Part I (XXV — 1954).  
Philo's Place in Judaism, Part II (XXVI — 1955).
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The Rabbanite Prayer Book Quoted by Qirqisani (XXII — 1949).  
Qalîr's Qîna from the Kaufmann Geniza (XXIII, Part Two — 1950-1951).
- SCHOEPS, HANS JOACHIM  
Simon Magus in der Haggadah? (XXI — 1948).
- SCHWARTZMAN, SYLVAN D.  
How Well Did the Synoptic Evangelists Know the Synagogue? (XXIV — 1952-1953).
- SHULVASS, MOSES A.  
סיפור הערות שעברו באיטליה (XXII — 1949).



## INDEX

SILBERMAN, LOU H.

The Sefirah Season (XXII — 1949).

SILBERNER, EDMUND

Ferdinand Lassalle: From Maccabeism to Jewish Antisemitism (XXIV — 1952-1953).

SONNE, ISAIAH

לבקורת הטכסט של פירוש רש"י על התורה (XV — 1940).

לתולדות קהלות בולונייה בתחלת המאה הש"ז (XVI — 1941).

An Unknown Kēroba of Jannai (XVIII — 1944).

The Second Psalm (XIX — 1945-46).

The Paintings of the Dura Synagogue (XX — 1947).

Leon Modena and the Da Costa Circle in Amsterdam (XXI — 1948).

פרקים ממסכת גירושין (XXII — 1949).

A Hymn Against Heretics in the Newly Discovered Scrolls (XXIII, Part One — 1950-1951).

SONNE, ISAIAH and WERNER, ERIC

The Philosophy and Theory of Music in Judaeo-Arabic Literature (XVI — 1941).

The Philosophy and Theory of Music in Judaeo-Arabic Literature (Second Installment) (XVII — 1942-43).

SPEISER, E. A.

The Sumerian Problem Reviewed (XXIII, Part One — 1950-1951).

SPERBER, ALEXANDER

Hebrew Based on Greek and Latin Transliterations (XII-XIII — 1937-38).

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Problems of the Masora (XVII — 1942-43).

SPICEHANDLER, EZRA

דינא דמניסחא and בי דואר, Notes on Gentile Courts in Talmudic Babylonia (XXVI — 1955).

STEIN, EDMUND

Die Homiletische Peroration im Midrasch (VIII-IX — 1931-32).

SUKENIK, E. L.

The Mosaic Inscriptions in the Synagogue at Apamea on the Orontes (XXIII, Part Two — 1950-1951).

TAEUBLER, EUGEN

Kharu, Horim, Dedanim (I — 1924).

Cushan-Rishathaim (XX — 1947).

## INDEX

TAEUBLER, SELMA STERN

Der Literarische Kampf um die Emanzipation in den Jahren 1816-1820  
und seine Ideologischen und Soziologischen Voraussetzungen (XXIII,  
Part Two — 1950-1951).

TARTAKOWER, ARIEH

Fundamental Problems of Jewish Demography Today (XXIII, Part  
Two — 1950-1951).

TOLEDANO, JACOB MOSES

חעודות מכתבי"ד (IV — 1927).

מכתבי"ד (V — 1928).

היהודים בשאנניר (VIII-IX — 1931-32).

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TORCZYNER, HARRY

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TORREY, CHARLES C.

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1950-1951).

TSEVAT, MATITIAHU

Some Biblical Notes (XXIV — 1952-1953).

VAJDA, GEORGES

Jeûne Musulman et Jeûne Juif (XII-XIII — 1937-38).

VOGELSTEIN, HERMANN

The Development of the Apostolate in Judaism and its Transformation  
in Christianity (II — 1925).

VOGELSTEIN, MAX

Nebuchadnezzar's Reconquest of Phoenicia and Palestine and the Oracles  
of Ezekiel (XXIII, Part Two — 1950-1951).

WALLACH, LUITPOLD

A Palestinian Polemic Against Idolatry (XIX — 1945-46).

WEINBERG, T. and KAHLE, P.

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1935).

WEINRYB, BERNARD D.

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(XVI — 1941).

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## INDEX

### WEISS, ABRAHAM

לחקר הספרותי של משנה (XVI — 1941).

### WERNER, ERIC

Preliminary Notes for a Comparative Study of Catholic and Jewish Musical Punctuation (XV — 1940).

Manuscripts of Jewish Music in the Eduard Birnbaum Collection (XVIII — 1944).

The Doxology in Synagogue and Church, a Liturgico-Musical Study (XIX — 1945-46).

The Conflict between Hellenism and Judaism in the Music of the Early Christian Church (XX — 1947).

The Origin of the Eight Modes of Music (XXI — 1948).

Oriental Christian and Hebrew Metrical Hymns (XXIII, Part Two — 1950-1951).

The Origin of Psalmody (XXV — 1954).

New Light on the Family of Felix Mendelssohn (XXVI — 1955).

### WERNER, ERIC and SONNE, ISAIAH

The Philosophy and Theory of Music in Judaeo-Arabic Literature (XVI — 1941).

The Philosophy and Theory of Music in Judaeo-Arabic Literature (Second Installment) (XVII — 1942-43).

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John Toland and Judaism (XVI — 1941).

Aufriss einer Juedischen Theologie (XVIII — 1944).

Judah Halevi's Concept of Religion and a Modern Counterpart (XXIII, Part One — 1950-1951).

### WILENSKY, MICHAEL

R. Moseh al-Roṭī (אלרוטי) (XI — 1936).

About Manuscripts (XII-XIII — 1937-38).

מתוך כתבי יד (XIV — 1939).

Additions and Corrections (XVI — 1941).

מתוך כתבי יד (XVIII — 1944).

An Interpretation of an Obscure Expression in Medieval Poetry (XXIII, Part Two — 1950-1951).

### WISCHNITZER, MARK

Note to a History of Jewish Guilds (XXIII, Part Two — 1950-1951).

### WOLFENSON, L. B.

Implications of the Place of the Book of Ruth in Editions, Manuscripts, and Canon of the Old Testament (I — 1924).

## INDEX

### WOLFSON, HARRY A.

Notes on Proofs of the Existence of God in Jewish Philosophy (I — 1924).  
The Classification of Sciences in Mediaeval Jewish Philosophy (Jubilee — Special, 1925).

Additional Notes to the Article on the Classification of Sciences in Mediaeval Jewish Philosophy (III — 1926).

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